

# BOARD OF APPEALS AGENDA

August 5, 2013  
3:00 P.M.

Meeting Rooms D&E  
City-County Government Center

160 South Macy Street  
Fond du Lac, Wisconsin

## I. CALL TO ORDER

- A. Roll Call
- B. Declaration a Quorum is Present

## II. APPROVAL OF MINUTES

- A. July 1, 2013

## III. HEARINGS

- A. Appeal No.: 2013-21  
1060 East Johnson Street  
Tasso Investments LLC

Zoning Code Regulations: Section 11.11 E.7.b. requires a minimum 15' front yard parking lot landscape setback in the B-5 district.

Section 11.11 G. Schedule VI requires one parking space for each 200 square feet of gross floor area for a commercial establishment.

Section 11.12 I. allows 1.0 square foot of ground sign area per each lineal foot of main building façade.

Proposal: Reduce front yard parking lot setback to 5 feet. Reduce number of required parking spaces from 75 to 67. Increase allowable ground sign area from 114 sq. ft. to 125 sq. ft.

**BOARD OF APPEALS AGENDA**

August 5, 2013

Page 2

- B. Appeal No.: 2013-22  
587 Emma Street  
John A. Schmitt

Zoning Code Regulation: Section 11.04 C.3.o(1)(f) states the width of a detached garage for a single family residence shall not exceed more than one-half of the width of the lot.

Proposal: Increase allowable lot width coverage from 22.5 feet to 24 feet for construction of detached garage.

- C. Appeal No.: 2013-23  
263 Candy Lane  
Judith Jaber

Zoning Code Regulation: Section 11.06 D. Schedule IA requires a 20' rear yard building setback in the R-3 zoning district.

Proposal: Reduce rear yard building setback to 17'6" for expansion of attached garage.

- D. Appeal No.: 2013-24  
57 N Macy Street  
Commonwealth Coffee Company LLC

Zoning Code Regulations: Section 11.12 I. Schedule V. does not permit ground signs within the B-3 zoning district.

Section 11.12 I. Schedule V. requires a minimum clearance of 8' aboveground for any ground sign located within 10' of a driveway.

Section 11.12 D.3 states sign shape, color, materials and illumination shall be complimentary to the character and architecture of the building to which it is affixed.

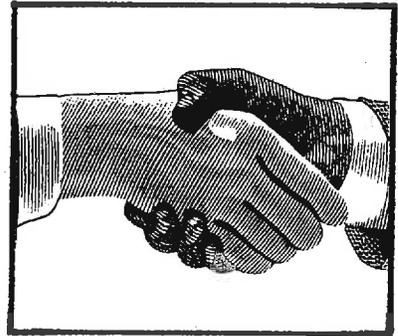
Proposal: Install monument sign, eliminate height clearance requirement for monument sign, and install internally illuminated wall sign for property located in the downtown business district.

**IV. ADJOURN**

## CITIES 62.23

7. The board of appeals shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. The board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.

8. In exercising the above mentioned powers such board may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.



Aug. 5, 2013

3:00<sup>P</sup><sub>M</sub>

# Board of Appeals

## BOARD OF APPEALS MINUTES

July 1, 2013

3:00 P.M.

Meeting Rooms D&E  
City-County Government Center

160 South Macy Street  
Fond du Lac, Wisconsin

### CALL TO ORDER

ROLL CALL: Present: - Katie Derksen  
Eric Drazkowski  
Howard Floeter  
Jerry Lauby  
Dan Hebel

Absent: Kirsten Quam (excused)  
Matthew Schoenleber (excused)  
Jeffrey Butzke (excused)  
John Piper III (excused)

Administrative Staff: - Joellyn Dahlin, Principal Planner

Acting Chairperson Floeter declared a quorum present.

### APPROVAL OF MINUTES

#### June 3, 2013

Motion made by Lauby to approve the minutes of the regular meeting of June 3, 2013 of the Board of Appeals as presented.

Seconded by Drazkowski.

ROLL CALL VOTE: Aye - Derksen, Drazkowski,  
Floeter, Hebel, Lauby  
Nay - None

Carried.

### HEARINGS

#### Appeal No.: 2013-19

110 S Brooke Street

Howard Floeter o/b/o 110 S Brooke LLC

Zoning Code Regulation: Section 11.11 E.7.b. requires a 30' front yard parking setback in the M-2 zoning district.





# ZONING PETITION - VARIANCE



CITY OF FOND DU LAC

**ADDRESS OF VARIANCE REQUEST:** 1060 East Johnson Street  
Tax Key Number if vacant land: A portion of Tax Key #T09-15-17-12-13-003-00

Petitioner: Tasso Investments LLC c/o ICAP Development - 1243 N. 10<sup>th</sup> Street, Milwaukee WI  
(Name) (Address)

Petitioner Phone Number: (414) 278-6873

Petitioner Email: brian.adamson@icap-dev.com

Property Owner: Halter Irrevocable Trust 1001 Whippoorwill Lane, Fond du Lac, WI  
If not the same as Petitioner (Name) (Address)

## VARIANCE REQUEST

A variance is an exception to a requirement of the Zoning Code or Building Code. Describe the requested exception(s) for your variance request:

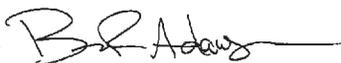
- (1) Decrease landscaping buffer along Country Lane from 15' to 5'.
- (2) Decrease required parking stalls from 75 to 67 stalls.
- (3) Increase allowable ground sign area from 114 square feet to 125 square feet.

## STATEMENT OF HARDSHIP

A variance may be approved if a hardship specific to a property does not allow compliance with zoning regulations. A hardship is created by a **physical condition** of the property.

Describe the special circumstances of your property that require approval of a variance:

Please see attached Addendum A \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Petitioner Signature: 

APPEAL NO. 2013-21

**Addenda A to City of Fond du Lac Variance Petition dated July 22, 2013  
For the property known as: A portion of Tax Key # T09-15-17-12-13-003-00**

**Statement of Hardship:**

I have outlined below a brief description of the circumstances that have caused our proposed project to request the variances listed on the Variance Petition.

**Variance 1- Landscaping Buffer along Country Lane:**

As part of our proposed development project, we will be constructing an extension of the public roadway known as Country Lane (see attached site plan). We have worked closely with the City on the design and configuration of this road extension. The final design and location of Country Lane has reduced the depth of our development parcel from 340' to 215'. As such, the site does not contain enough depth to accommodate a 15' landscaping buffer along Country Lane. Our landscaping plan, however, will still include plantings along the 5' buffer shown on the site plan.

**Variance 2- Parking:**

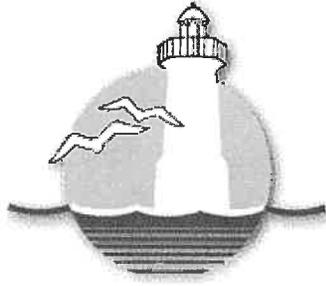
City code requires 1 stall for each 200 sq ft of building area, or 75 parking stalls for our proposed development. Our tenant has indicated they require 60 "convenient" (i.e. front or side of store) parking stalls at this location. The enclosed site plan shows the maximum amount of parking stalls available for our tenant on the development property, which is 67 stalls. The physical boundaries of this site cannot be altered to accommodate more parking.

It is also worth noting that this single-tenant building contains several large areas used for storage, including a large stock room and also pharmacy storage. The stock area for general sales (non-pharmacy items) is 2,562 square feet. If this area is removed from the parking ratio calculation, our development would require 62 parking stalls under current code.

**Variance 3- Ground signage:**

The proposed building within our development has dimensions of 130' wide by 114' deep. Although our Tenant would prefer to have its main entrance facing Johnson Street, the depth of our development parcel does not allow it. Therefore, our 130' front façade and building entrance face Country Lane. Based on current code, our development would be allowed a 130 sq ft ground sign along Country Lane. However, for both traffic and visibility reasons we propose locating a 125 sq ft ground sign along Johnson Street. I have included detailed drawings of our proposed sign and the enclosed site plan shows our desired sign location. By placing this sign in the center of our property along Johnson Street, we have found a location that allows visibility for our client, but also provides maximum distance from our ground sign to any current or future curb cuts/driveways. We feel this is an added public benefit to allowing a variance for our proposed sign and our request for an increase is still below what this development is allowed if our ground sign were to be located along Country Lane.

# VARIANCE PETITION



## **APPEAL No. 2013-21**

**BOARD OF APPEALS MEETING: August 5, 2013**

**Location: 1060 East Johnson Street**

**Petitioner: Tasso Investments LLC**

## **FOND DU LAC ZONING CODE REGULATIONS:**

Section 11.11 E.7.b. requires a minimum 15' front yard parking lot landscape setback in the B-5 district.

Section 11.11 G. Schedule VI requires one parking space for each 200 square feet of gross floor area for a commercial establishment.

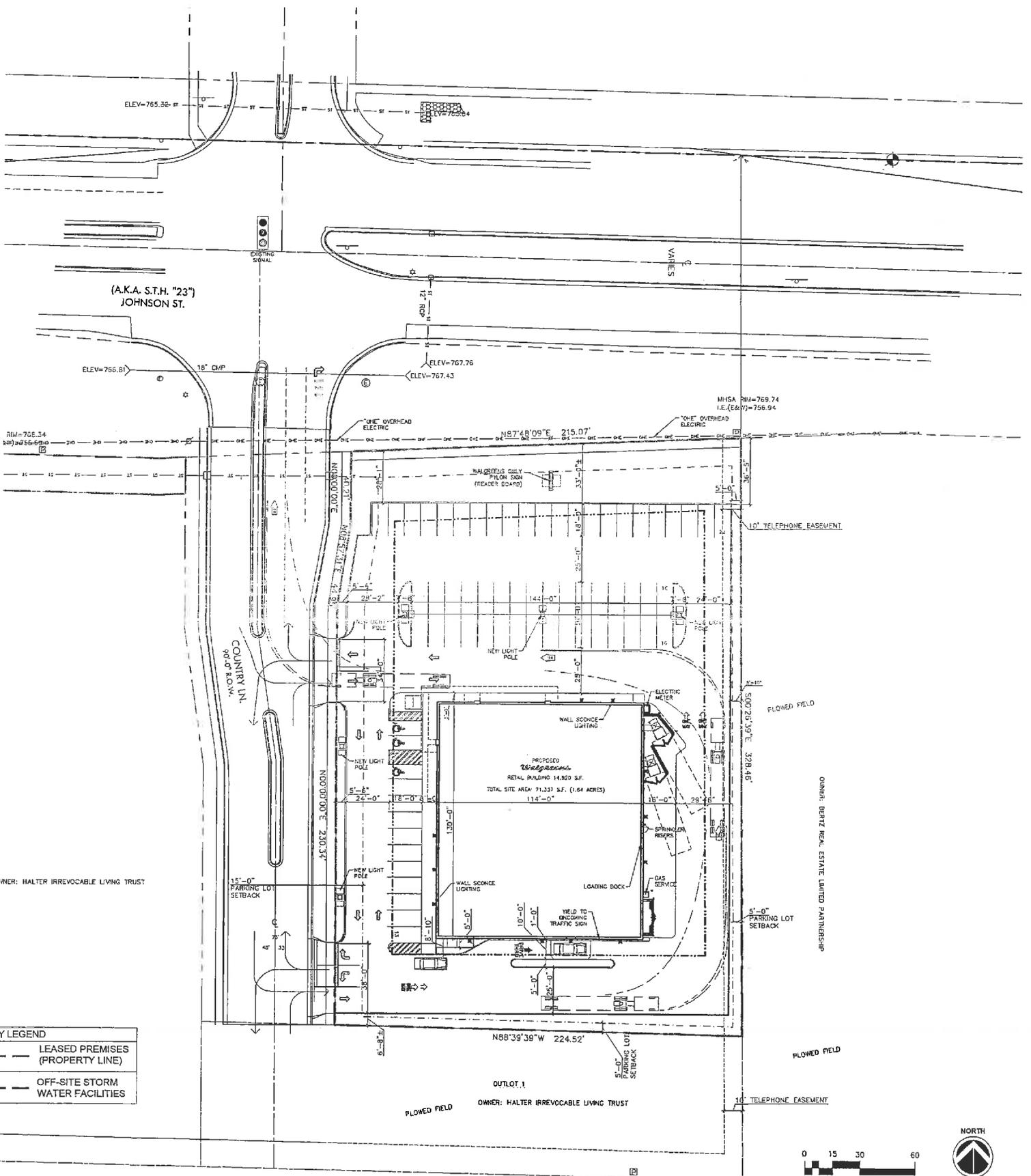
Section 11.12 I. allows 1.0 square foot of ground sign area per each lineal foot of main building façade.

## **PROPOSAL:**

Reduce front yard parking lot setback to 5 feet.

Reduce number of required parking spaces from 75 to 67.

Increase allowable ground sign area from 114 sq. ft. to 125 sq. ft.



(A.K.A. S.T.H. "23")  
JOHNSON ST.

R/W=705.34  
MVA=2856.69

OWNER: HALTER IRREVOCABLE LIVING TRUST

**LEGEND**

	LEASED PREMISES (PROPERTY LINE)
	OFF-SITE STORM WATER FACILITIES

N87°48'09"E 215.07'

PROPOSED  
*Walgreens*  
RETAIL BUILDING 14,800 S.F.  
TOTAL SITE AREA 71,237 S.F. (1.64 ACRES)  
134'-0"

N88°39'39"W 224.52'

OUTLOT 1  
OWNER: HALTER IRREVOCABLE LIVING TRUST

OWNER: JOSEPH L. ZIEGLER

**1 SITE PLAN**  
1'-30"-0"

SEE SURVEY FOR FULL SITE DESCRIPTION.





APPEAL NO. 2013-21 – TASSO INVESTMENTS LLC  
1060 EAST JOHNSON STREET



FUTURE WALGREENS STORE

# board of appeals memorandum

**Date:** July 31, 2013  
**To:** Board of Appeals  
**From:** Joellyn Dahlin, Principal Planner   
**RE:** Appeal No. 2013-21

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**Location:** 1060 East Johnson Street

**Applicant:** Tasso Investments LLC

**Zoning:**

Site:	B-5 (Special Commercial)
North:	B-5
South:	B-5
East:	A-T (Agricultural Transition)
West:	B-5

**Land Use:**

Site:	Undeveloped Land – Future Walgreens
North:	Kwik Trip/Shops at Johnson Crossing
South:	Undeveloped Land (Future Commercial)
East:	Agricultural
West:	Undeveloped Land (Future Commercial)

**Request:** Reduce front yard landscape setback for parking lot, reduce on-site parking requirement, increase allowable ground sign area.

## Analysis

The subject property is undeveloped land on the south side of East Johnson Street on the east side of the planned extension of Country Lane. Development of the site for a Walgreens store is planned. Exceptions to zoning regulations that affect the front yard parking lot setback, the required number of parking spaces, and allowable ground sign area are requested.

Front yard setback requirements apply to both street frontages of the property. The B-5 district requires a front yard landscape setback of 15 feet. The proposed setback for the Johnson Street frontage complies with zoning requirements. The variance request proposes a 5' setback for the front yard area of Country Lane. The proposed setback is representative of established commercial areas in the City.

The second issue of the variance request concerns on-site parking. The parking requirement is based on the gross square footage of a building. The formula is appropriate for businesses that use a building entirely for one use. The formula is not practical when considering the parking demand for a business that includes a retail component and significant floor area dedicated for storage. Storage areas do not generate a demand for parking.

The proposed building is 14,820 square feet. Strict application of zoning regulations assumes the entire building will be used for retail purposes and 74 parking spaces are therefore required. Excluding the 2,562 square feet of stock and pharmacy storage, the parking requirement for the retail area of the building is 61 spaces. The development plan provides 67 parking spaces. Historical data of the business indicates that 60 parking spaces are required by the tenant.

The third issue of the variance request concerns the allowable size of a ground sign. Sign area is based on the linear dimension of the building façade. One square foot of sign area is allowed for each linear foot of building façade. The ground sign for the new store is proposed within the front yard area of the Johnson Street frontage of the site; 114 square feet of sign area is permitted. Based on the dimension of the building façade that faces Country Lane, allowable sign area for that frontage is 130 square feet. The proposed sign is 125 square feet. The sign - if situated within the Country Lane yard area of the property – would meet code requirements.

The three issues of the variance request are unique to the property. Approval of the requested exceptions does not affect any neighboring property and would not have

any impact on any neighboring property. Favorable consideration of the variance request is recommended.

#### Statement of Hardship or Practical Difficulty

**To justify approval of a variance, the hardship to support an exception to zoning regulations must directly relate to the physical character of the *property*, not the personal circumstances or preference of the *property owner* or tenant.**

(1) The exception to the parking lot landscape setback reflects development considerations caused by the design and construction of a new street; (2) The exception to the parking requirement reflects actual building area that will generate a demand for parking; and (3) The exception to ground sign area reflects the proposed location of the sign.

#### Statement of Findings

*To grant the requested variance, the Board of Appeals must find:*

1. The proposed variance is not contrary to the public interest;
2. The property has a special or unique condition; and
3. The special condition of the property creates an unnecessary hardship.

#### Making and Taking of Precedent

The Board of Appeals decision to approve or deny a variance request must be based on the merit of the individual case. Where a history of variance requests provides similar accounts of circumstances, a reasonable consistency between decisions would be appropriate.

#### Recommendation

**A motion to approve or deny a variance request must state the findings in support of the action taken.**

Community Development staff suggest a motion to **approve the variance request**, based on findings referenced herein and specifically because (1) The exception to the parking lot landscape setback reflects development considerations caused by the design and construction of a new street; (2) The exception to the parking requirement reflects actual building area that will generate a demand for parking; and (3) The exception to ground sign area reflects the proposed location of the sign.

Parcel Number	Mailing Address 1	Mailing Address 2	Mailing City	Mailing State	Mailing Zip	Site Address
FDL-15-17-12-13-513-00	300 N MAIN ST STE 300		OSHKOSH	WI	54901	244 N COUNTRY LA
FDL-15-17-12-14-764-00	300 N MAIN ST STE 300		OSHKOSH	WI	54901	1125 E JOHNSON ST
FDL-15-17-12-13-514-00	PO BOX 3046		OSHKOSH	WI	54903	0 N COUNTRY LA
FDL-15-17-12-14-765-00	PO BOX 2107		LACROSSE	WI	54603	1061 E JOHNSON ST
T09-15-17-12-14-001-00	1001 WHIPPOORWILL LA		FOND DU LAC	WI	54935	N6675 PRAIRIE RD
T09-15-17-12-13-003-00	1001 WHIPPOORWILL LA		FOND DU LAC	WI	54935	
FDL-15-17-12-13-500-04	%TED SCHMITZ	W1522 GLADYS CT	BERLIN	WI	54923	68 KAIRIS CT
FDL-15-17-12-13-500-03	64 KAIRIS CT		FOND DU LAC	WI	54935	64 KAIRIS CT
FDL-15-17-12-42-250-00	W2875 GOLF COURSE DR		MT CALVARY	WI	53057	976 E JOHNSON ST
FDL-15-17-12-13-500-00	333 N PETERS AVE		FOND DU LAC	WI	54935	0 KAIRIS CT
FDL-15-17-12-13-500-02	33 KAIRIS CT		FOND DU LAC	WI	54935	33 KAIRIS CT
FDL-15-17-12-13-500-01	29 KAIRIS CT		FOND DU LAC	WI	54935	29 KAIRIS CT
FDL-15-17-12-13-510-00	W6824 BLUE HERON BLVD APT 7		FOND DU LAC	WI	54937	969 E JOHNSON ST

# ZONING PETITION - VARIANCE



CITY OF FOND DU LAC

**ADDRESS OF VARIANCE REQUEST:** 587 Emma St

Tax Key Number if vacant land: \_\_\_\_\_

Petitioner: John A Schmitt 587 EMMA ST  
(Name) (Address)

Petitioner Phone Number: (920) 921 4575

Petitioner Email: \_\_\_\_\_

Property Owner: John A Schmitt 587 EMMA ST  
(If not the same as Petitioner) (Name) (Address)

## VARIANCE REQUEST

A variance is an exception to a requirement of the Zoning Code or Building Code. Describe the requested exception(s) for your variance request:

LARGER GARAGE

## STATEMENT OF HARDSHIP

A variance may be approved if a hardship specific to a property does not allow compliance with zoning regulations. A hardship is created by a **physical condition** of the property.

Describe the special circumstances of your property that require approval of a variance:

LOT SIZE

Petitioner Signature: John A Schmitt

**APPEAL NO.** 2013-22

Submit application to the Community Development Office  
(4<sup>th</sup> floor, City-County Government Center)

# VARIANCE PETITION



**APPEAL No. 2013-22**

**BOARD OF APPEALS MEETING: August 5, 2013**

**Location: 587 Emma Street**

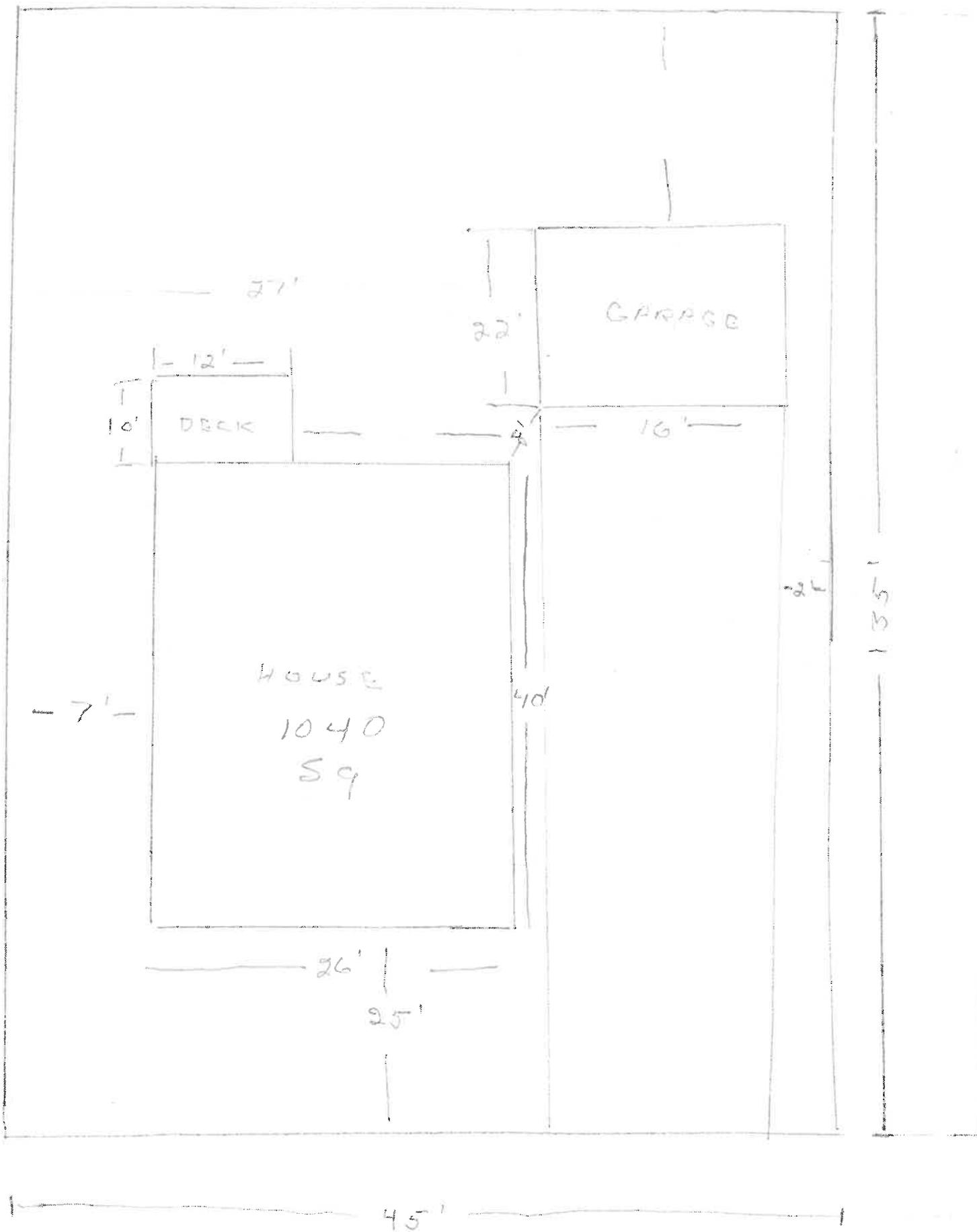
**Petitioner: John A. Schmitt**

## **FOND DU LAC ZONING CODE REGULATIONS:**

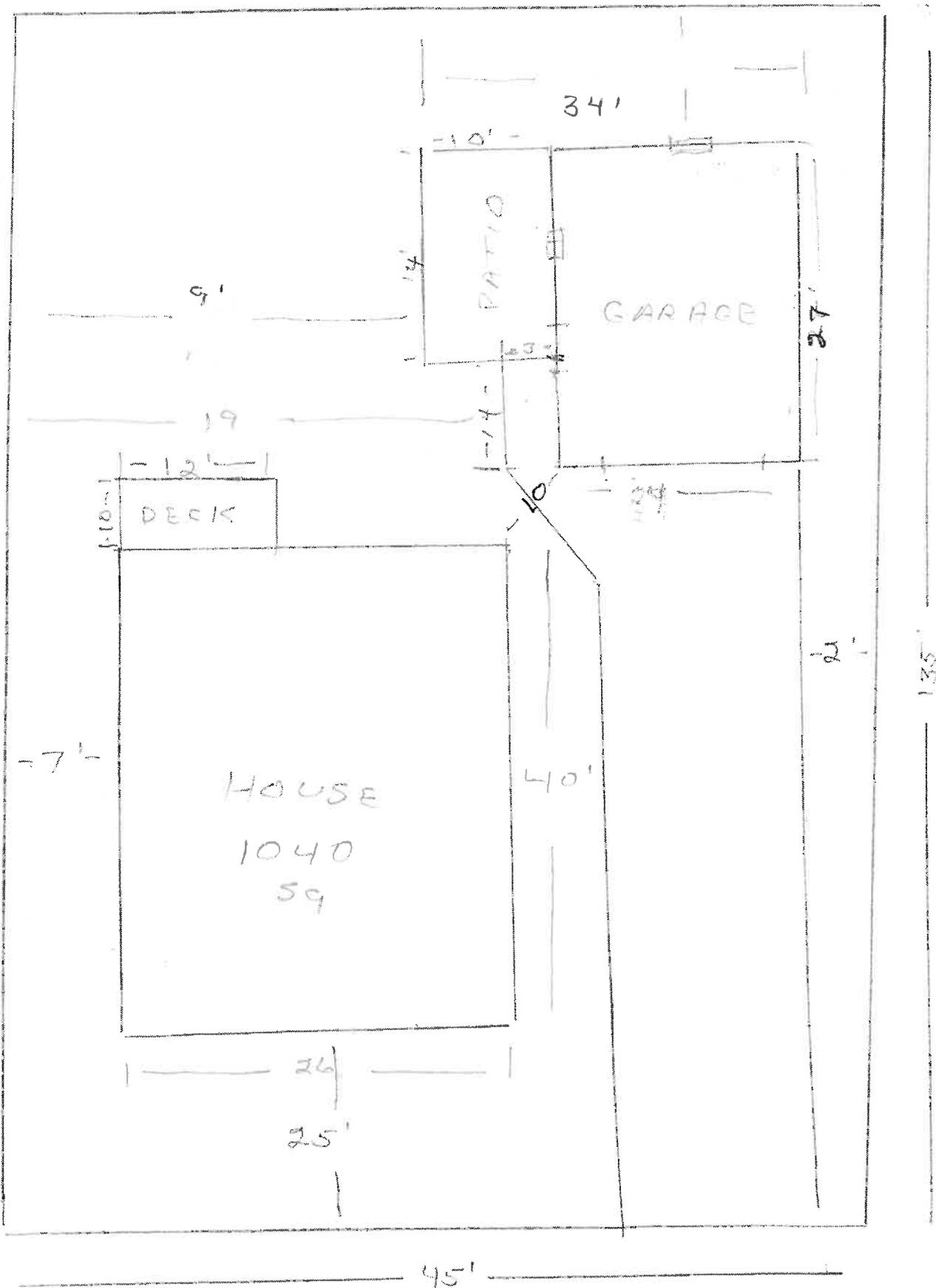
Section 11.04 C.3.o(1)(f) states the width of a detached garage for a single family residence shall not exceed more than one-half of the width of the lot.

## **PROPOSAL:**

Increase allowable lot width coverage from 22.5 feet to 24 feet for construction of detached garage.



existing garage



Proposed garage

APPEAL NO. 2013-22 – SCHMITT  
587 EMMA STREET



# board of appeals memorandum

**Date:** July 31, 2013  
**To:** Board of Appeals  
**From:** Joellyn Dahlin, Principal Planner   
**RE:** Appeal No. 2013-22

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**Location:** 587 Emma Street  
**Applicant:** John A. Schmitt  
**Zoning:** Site: R-3 (Single Family Residential)  
North: R-3  
South: R-3  
East: R-3  
West: R-3  
**Land Use:** Site: Single Family Residence  
North: Single Family Residence  
South: Single Family Residence  
East: Single Family Residence  
West: Single Family Residence  
**Request:** Increase allowable garage width.

<b>Analysis</b>
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The subject site is developed with a single family home and detached garage. The property owner would like to replace the existing 1.5-car garage with a larger garage. An exception to allowable building width is requested.

The petitioner's lot is 45 feet wide and 135 feet deep, with a lot area of 6055 square feet. Zoning regulations require a minimum lot width of 50 feet, lot depth of 115 feet and an area of 6000 square feet.

Zoning regulations restrict garage width to not more than one-half of the lot width. The subject 45'-wide lot allows a garage width of 22.5 feet; the variance proposes a garage width of 24 feet. An uncovered 10x14 patio slab is proposed on the west side of the garage. The slab would not be covered with any type of roof structure or enclosure. The proposed 24'x27' garage (648 square feet) is within the allowable building size (650 square feet) and is a typical size for a two-car garage.

Approval of the variance would not create a negative impact on the subject property, any adjacent property or the surrounding neighborhood. Favorable consideration of the variance request is recommended.

#### Statement of Hardship

**To justify approval of a variance, the hardship to support an exception to zoning regulations must directly relate to the physical character of the *property*, not the personal circumstances or preference of the *property owner* or tenant.**

The construction of a usable garage is hampered by the property's substandard lot width.

#### Statement of Findings

*To grant the requested variance, the Board of Appeals must find:*

1. The proposed variance is not contrary to the public interest;
2. The property has a special or unique condition; and
3. The special condition of the property creates an unnecessary hardship.

#### Making and Taking of Precedent

A decision to approve or deny a variance request must be based on the merit of the individual case. Where a history of variance requests provides similar accounts of circumstances, a reasonable consistency between decisions would be appropriate.

#### Recommendation

**A motion to approve or deny a variance request must state the findings in support of the action taken.**

Community Development staff suggests a motion to **approve the variance request** based on findings referenced herein, and specifically because the construction of a usable garage is hampered by the property's substandard lot width.

Conditions of approval shall include:

1. Garage design, building materials and color shall match or complement the residence.
2. Eave troughs and downspouts shall be provided to direct water away from adjacent properties.

Parcel Number	Mailing Address 1	Mailing City	Mailing State	Mailing Zip	Site Address
FDL-15-17-16-12-293-00	576 EMMA ST	FOND DU LAC	WI	54935	576 EMMA ST
FDL-15-17-16-12-292-00	574 EMMA ST	FOND DU LAC	WI	54935	574 EMMA ST
FDL-15-17-16-12-295-00	N6908 TOWER RD	FOND DU LAC	WI	54937	586 EMMA ST
FDL-15-17-16-12-279-00	4205 86TH ST	KENOSHA	WI	53142	591 EMMA ST
FDL-15-17-16-12-283-00	573 EMMA ST	FOND DU LAC	WI	54935	573 EMMA ST
FDL-15-17-16-12-257-00	574 FOREST AVENUE	FOND DU LAC	WI	54935	574 FOREST AVE
FDL-15-17-16-12-254-00	556 FOREST AVE	FOND DU LAC	WI	54935	556 FOREST AVE
FDL-15-17-16-12-255-00	556 FOREST AVE	FOND DU LAC	WI	54935	560 FOREST AVE
FDL-15-17-16-12-261-00	600 FOREST AVE	FOND DU LAC	WI	54935	600 FOREST AVE
FDL-15-17-16-12-278-00	593 EMMA ST	FOND DU LAC	WI	54935	593 EMMA ST
FDL-15-17-16-12-260-00	584 FOREST AVE	FOND DU LAC	WI	54935	584 FOREST AVE
FDL-15-17-16-12-281-00	323 OLD PIONEER RD	FOND DU LAC	WI	54935	581 EMMA ST
FDL-15-17-16-12-291-00	W8268 CTY RD T	FOND DU LAC	WI	54937	570 EMMA ST
FDL-15-17-16-12-285-00	565 EMMA ST	FOND DU LAC	WI	54935	565 EMMA ST
FDL-15-17-16-12-259-00	578 FOREST AVE	FOND DU LAC	WI	54935	578 FOREST AVE
FDL-15-17-16-12-296-00	596 EMMA ST	FOND DU LAC	WI	54935	596 EMMA ST
FDL-15-17-16-12-282-00	577 EMMA ST	FOND DU LAC	WI	54935	577 EMMA ST
FDL-15-17-16-12-284-00	569 EMMA ST	FOND DU LAC	WI	54935	569 EMMA ST
FDL-15-17-16-12-256-00	566 FOREST AVE	FOND DU LAC	WI	54935	566 FOREST AVE
FDL-15-17-16-12-262-00	606 FOREST AVE	FOND DU LAC	WI	54935	606 FOREST AVE
FDL-15-17-16-12-280-00	587 EMMA ST	FOND DU LAC	WI	54935	587 EMMA ST
FDL-15-17-16-12-294-00	584 EMMA ST	FOND DU LAC	WI	54935	584 EMMA ST
FDL-15-17-16-12-290-00	N3996 HICKORY RD	FOND DU LAC	WI	54937	560 EMMA ST
FDL-15-17-16-12-258-00	576 FOREST AVE	FOND DU LAC	WI	54935	576 FOREST AVE
FDL-15-17-16-12-297-00	600 EMMA ST	FOND DU LAC	WI	54935	600 EMMA ST

# ZONING PETITION - VARIANCE



CITY OF FOND DU LAC

**ADDRESS OF VARIANCE REQUEST:** 263 Candy Lane, Fond du Lac  
Tax Key Number if vacant land: \_\_\_\_\_

Petitioner: Judith R. Jaber 263 Candy Lane, Fond du Lac, WI 54935  
(Name) (Address)

Petitioner Phone Number: (920) 921-0012

Petitioner Email: \_\_\_\_\_

Property Owner: \_\_\_\_\_  
(If not the same as Petitioner) (Name) (Address)

## VARIANCE REQUEST

A variance is an exception to a requirement of the Zoning Code or Building Code. Describe the requested exception(s) for your variance request:

\* Reduce our rear yard setback to 17.6" feet for  
addition of another stall to our single-car  
garage.

## STATEMENT OF HARDSHIP

A variance may be approved if a hardship specific to a property does not allow compliance with zoning regulations. A hardship is created by a **physical condition** of the property.

Describe the special circumstances of your property that require approval of a variance:

\* House is on a corner lot. 5-6' setback behind  
house. Have single-car garage.

Petitioner Signature: Judith R. Jaber

**APPEAL NO.** 2013-23

Submit application to the Community Development Office  
(4<sup>th</sup> floor, City-County Government Center)

# VARIANCE PETITION



**APPEAL No. 2013-23**

**BOARD OF APPEALS MEETING: August 5, 2013**

**Location: 263 Candy Lane**

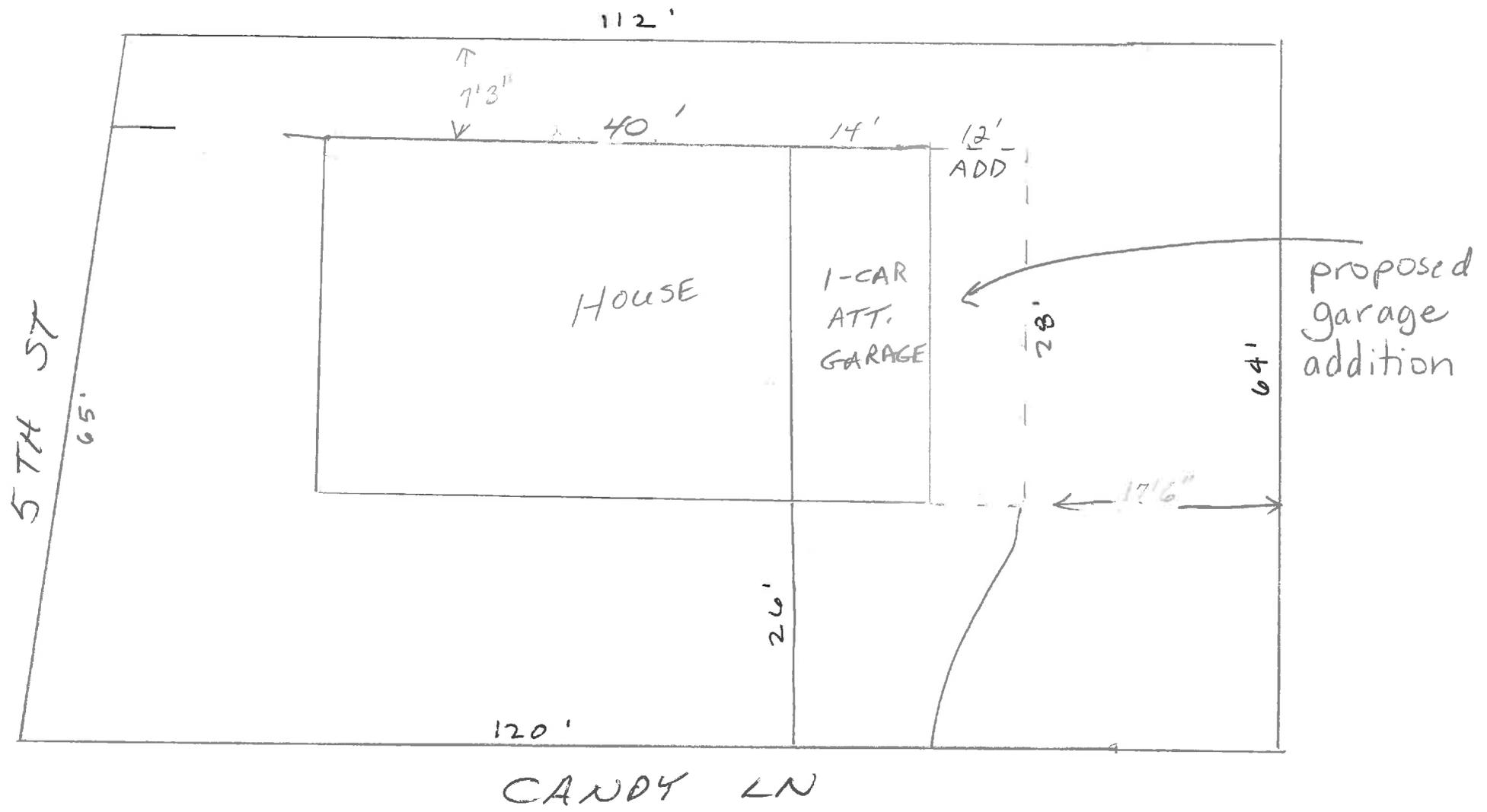
**Petitioner: Judith Jaber**

## **FOND DU LAC ZONING CODE REGULATIONS:**

Section 11.06 D. Schedule IA requires a 20' rear yard building setback in the R-3 zoning district.

## **PROPOSAL:**

Reduce rear yard building setback to 17'6" for expansion of attached garage.



APPEAL NO. 2013-23 – JABER  
263 CANDY LANE



STREET VIEW CANDY LANE LOOKING EAST





Cheryl Millay  
267 Candy Ln.  
Fond Du Lac, WI 54935-5322

July 31, 2013

Dear Sue,

My name is Cheryl Millay and I live at 267 Candy Lane in Fond du lac WI. I am writing in regards to the zoning code regulation for Judith Jaber at 263 Candy Lane Appeal number: 2013-23. I am writing to tell you that I have no objections with her expanding her garage to 17'6". If you have any questions please contact me at 920-921-1429.

Sincerely,

Cheryl F. Millay

RECEIVED BY CITY CLERK

8-1-2013

# board of appeals memorandum

**Date:** July 31, 2013  
**To:** Board of Appeals  
**From:** Joellyn Dahlin, Principal Planner   
**RE:** Appeal No. 2013-23

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**Location:** 263 Candy Lane  
**Applicant:** Judith Jaber  
**Zoning:** Site: R-3 (Single Family Residential)  
North: R-3  
South: R-3  
East: R-3  
West: R-3  
**Land Use:** Site: Single Family Residence  
North: Single Family Residence  
South: Single Family Residence  
East: Single Family Residence  
West: Roberts Elementary School  
**Request:** Reduce rear yard building setback.

## Analysis

The subject property is developed with a single family residence and one-car attached garage. An exception to the rear yard building setback requirement is proposed for expansion of the garage.

The property is a corner lot with frontage on Candy Lane and 5<sup>th</sup> Street. The residence and garage face Candy Lane. A corner lot has two front yards because of frontage on two streets. Unlike an interior lot that has two side yards and a rear yard, a corner lot has one side yard and a rear yard. Zoning regulations allow the property owner to designate which of the two interior yards is a side yard and which is a rear yard. The purpose for allowing this choice is to maximize use of the property.

Zoning regulations require a 5' side yard setback and a 20' rear yard setback. The variance request affects the rear yard setback. The rear yard setback affects the south side of the building. A setback of 17'6" is proposed.

The proposed building addition would expand the existing one-car garage to allow covered parking for two cars. Site conditions limit modification of the existing building largely due to site constraints of the corner lot. Expansion of the building in compliance with zoning regulations is not practical or reasonable because it would not allow usable garage area.

Construction of the building addition has started. It should be noted that the property owner submitted required drawings in good faith for the issuance of a building permit prior to the start of construction. A building permit was issued; the discrepancy of the rear yard setback was discovered after the start of construction.

Approval of the setback exception will not compromise the subject property or any neighboring property. Favorable consideration of the variance request is recommended.

#### Statement of Hardship

**To justify approval of a variance, the hardship to support an exception to zoning regulations must directly relate to the physical character of the *property*, not the personal circumstances or preference of the *property owner* or tenant.**

The variance request reflects site limitations that do not reasonably permit expansion of the building.

#### Statement of Findings

*To grant the requested variance, the Board of Appeals must find:*

1. The proposed variance is not contrary to the public interest;
2. The property has a special or unique condition; and
3. The special condition of the property creates an unnecessary hardship.

### **Making and Taking of Precedent**

A decision to approve or deny a variance request must be based on the merit of the individual case. Where a history of variance requests provides similar accounts of circumstances, a reasonable consistency between decisions would be appropriate.

### **Recommendation**

**A motion to approve or deny a variance request must state the findings in support of the action taken.**

Community Development staff suggests a motion to **approve the variance request** based on findings referenced herein, and specifically because site limitations do not reasonably permit expansion of the building.

Parcel Number	Mailing Address 1	Mailing City	Mailing State	Mailing Zip	Site Address
FDL-15-17-14-14-793-00	284 LAUREL LN	FOND DU LAC	WI	54935	284 LAUREL
FDL-15-17-14-13-570-00	273 CANDY LANE	FOND DU LAC	WI	54935	273 CANDY
FDL-15-17-14-13-576-00	72 W 9TH ST	FOND DU LAC	WI	54935	270 CANDY
FDL-15-17-14-13-567-00	263 CANDY LN	FOND DU LAC	WI	54935	263 CANDY
FDL-15-17-14-14-792-00	278 LAUREL LN	FOND DU LAC	WI	54935	278 LAUREL
FDL-15-17-14-13-564-00	507 5TH ST	FOND DU LAC	WI	54935	507 5TH ST
FDL-15-17-14-13-569-00	267 CANDY LN	FOND DU LAC	WI	54935	267 CANDY
FDL-15-17-14-13-573-00	289 CANDY LN	FOND DU LAC	WI	54935	289 CANDY
FDL-15-17-14-14-791-00	263 CANDY LN	FOND DU LAC	WI	54935	270 LAUREL
FDL-15-17-14-14-790-00	264 LAUREL LN	FOND DU LAC	WI	54935	264 LAUREL
FDL-15-17-14-13-575-00	297 CANDY LN	FOND DU LAC	WI	54935	297 CANDY
FDL-15-17-14-13-571-00	279 CANDY LN	FOND DU LAC	WI	54935	279 CANDY
FDL-15-17-14-13-574-00	541 8TH ST	FOND DU LAC	WI	54935	541 8TH ST
FDL-15-17-14-14-794-00	290 LAUREL LN	FOND DU LAC	WI	54935	290 LAUREL
FDL-15-17-14-13-568-00	522 5TH ST	FOND DU LAC	WI	54935	522 5TH ST
FDL-15-17-14-13-565-00	515 5TH ST	FOND DU LAC	WI	54935	515 5TH ST
FDL-15-17-14-13-572-00	285 CANDY LN	FOND DU LAC	WI	54935	285 CANDY
FDL-15-17-14-14-789-00	248 LAUREL LN	FOND DU LAC	WI	54935	248 LAUREL
FDL-15-17-14-14-795-00	296 LAUREL LN	FOND DU LAC	WI	54935	296 LAUREL

# ZONING PETITION - VARIANCE



CITY OF FOND DU LAC

**ADDRESS OF VARIANCE REQUEST: 57 North Macy Street**

Petitioner: Commonwealth Coffee Company LLC 54 E 1<sup>st</sup> Street, Fond du Lac, WI 54935  
(Name) (Address)

Petitioner Phone Number: (920) 922-8170 x25

Petitioner Email: leffel@commonwealthco.net

Property Owner: Riverside Senior, LLC 54 E 1<sup>st</sup> Street, Fond du Lac, WI 54935  
(Name) (Address)

## VARIANCE REQUEST

A variance is an exception to a requirement of the Zoning Code or Building Code. Describe the requested exception(s) for your variance request:

1. Provide monument sign to identify commercial use that will occupy a portion of a mixed-used downtown building. The sign would be located on the north side of the building, west of the driveway entrance to Merrill Avenue and perpendicular to Merrill Avenue.
2. Install internally illuminated wall (cabinet) sign on the north façade of the building.

## STATEMENT OF HARDSHIP

A variance may be approved if a hardship specific to a property does not allow compliance with zoning regulations. A hardship is created by a **physical condition** of the property.

Describe the special circumstances of your property that require approval of a variance:

Noting the location on the far northwestern corner of the downtown area necessitates additional visibility to potential customers. The one-way streets adjacent to the property restrict accessibility. The monument sign is necessary to ensure that traffic is directed to the site in an efficient manner to ensure public safety.

Petitioner Signature: \_\_\_\_\_



**APPEAL NO. 2013-24**

Submit application to the Community Development Office  
(4<sup>th</sup> floor, City-County Government Center)

# VARIANCE PETITION



## **APPEAL No. 2013-24**

**BOARD OF APPEALS MEETING: August 5, 2013**

**Location: 57 N Macy Street**

**Petitioner: Commonwealth Coffee Company LLC**

## **FOND DU LAC ZONING CODE REGULATIONS:**

Section 11.12 I. Schedule V. does not permit ground signs within the B-3 zoning district.

Section 11.12 I. Schedule V. requires a minimum clearance of 8' aboveground for any ground sign located within 10' of a driveway.

Section 11.12 D.3 states sign shape, color, materials and illumination shall be complimentary to the character and architecture of the building to which it is affixed.

## **PROPOSAL:**

Install monument sign, eliminate height clearance requirement for monument sign, and install internally illuminated wall sign for property located in the downtown business district.

**Commonwealth Coffee Company & Deli Sign Plan – Variance Request**

**P R O P O S E D   S I G N A G E**

**MONUMENT SIGN:**

**North side of building, sited perpendicular to Merrill Avenue and located west of driveway entrance. Sign would be within 10 feet of the driveway.**

**Monument Dimensions: 5'6" x 7'**

**Sign area: 36" diameter internally illuminated logo and business identification sign, affixed to both sides of monument.**

**WALL CABINET SIGN:**

**North building facade, 36" diameter internally illuminated business logo and business identification sign. Sign thickness is 6".**

Business Logo With Correct Colors Used In All Signs





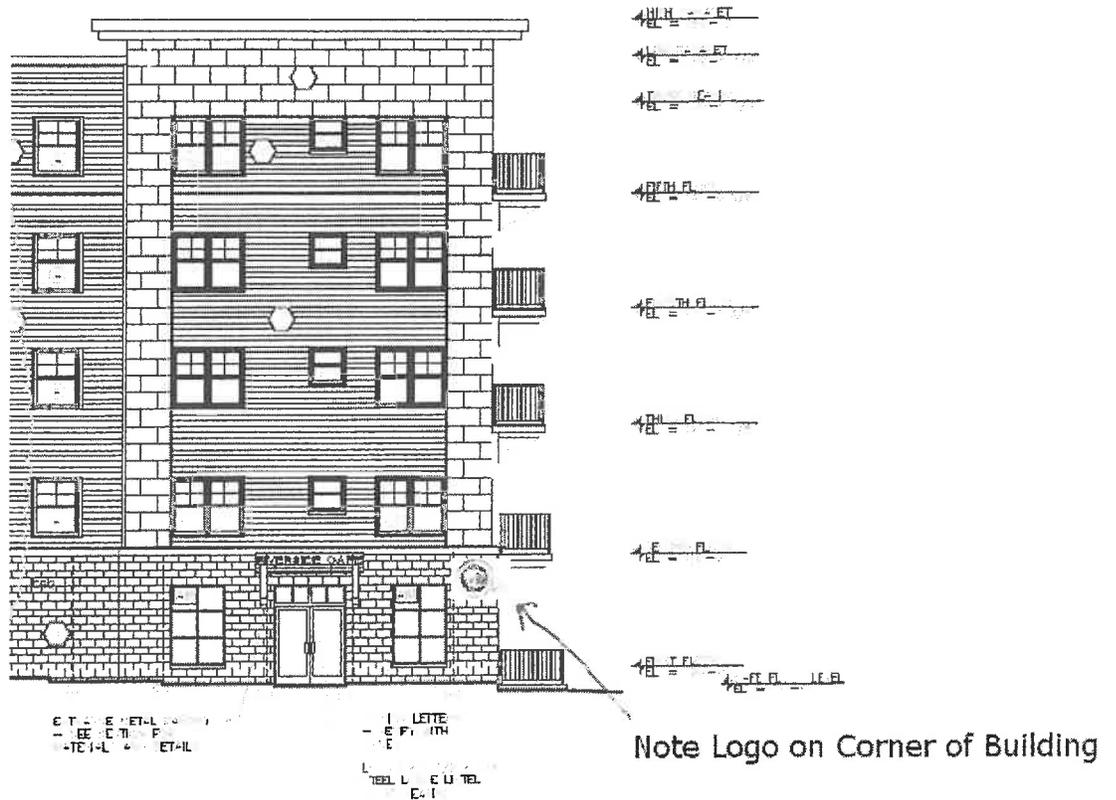


Monument Sign on North, Perpendicular to Merrill Ave.

Sign details:

36" diameter logo/business name  
internal illumination  
double face

North Elevation of Commonwealth Coffee Company



Sign details:

36" diameter (7 sq. ft.)

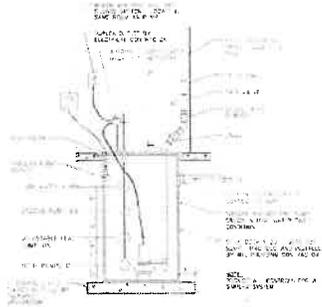
internal illumination

cabinet sign (wall)

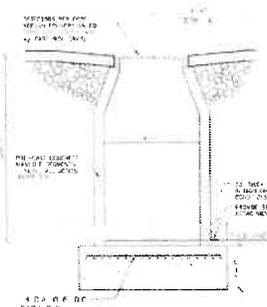
6" sign thickness

W  
S - | - N  
E

West



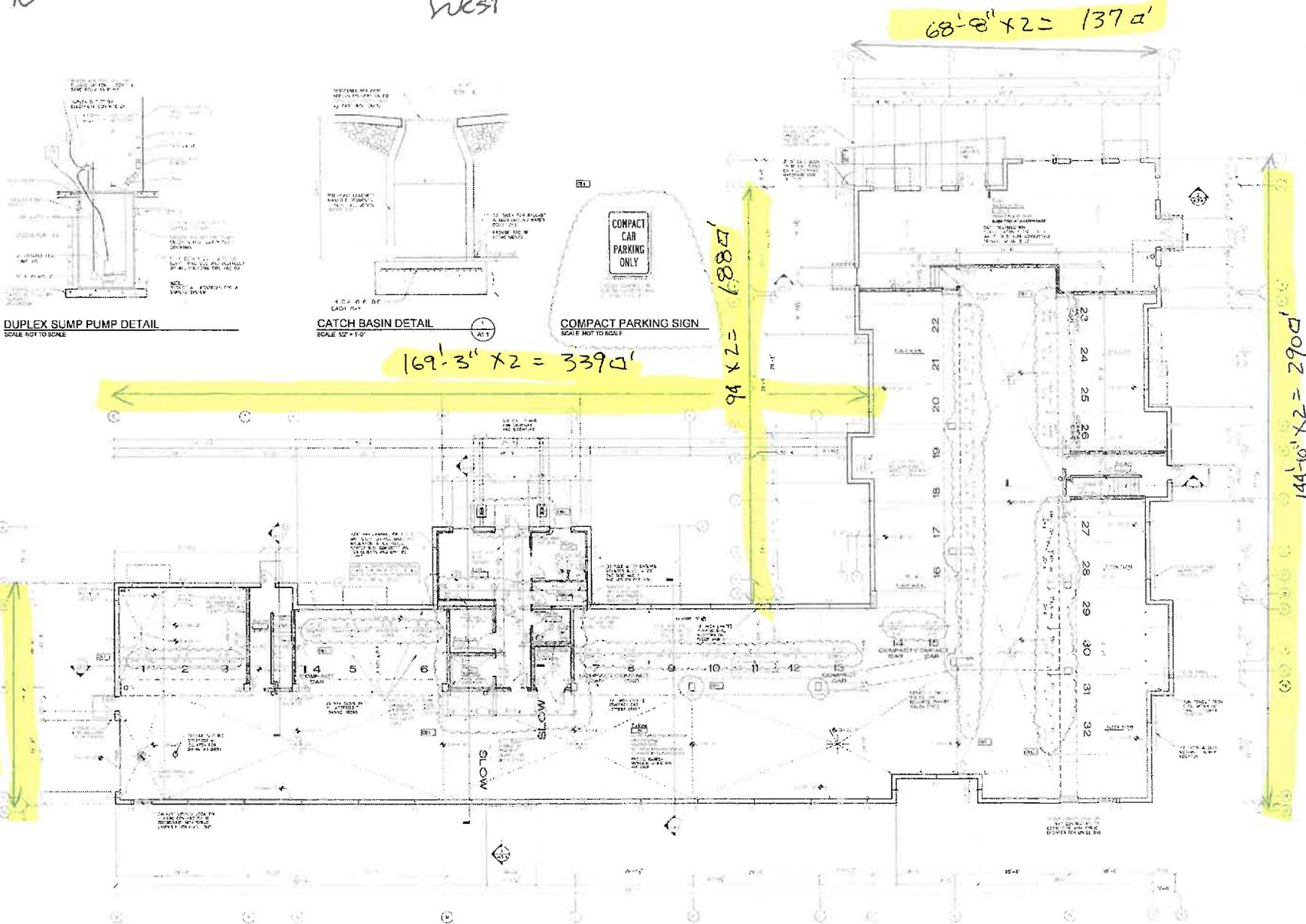
DUPLEX SUMP PUMP DETAIL  
SCALE NOT TO SCALE



CATCH BASIN DETAIL  
SCALE 1/2" = 1'-0"



COMPACT PARKING SIGN  
SCALE NOT TO SCALE



S  
D  
C  
+  
3



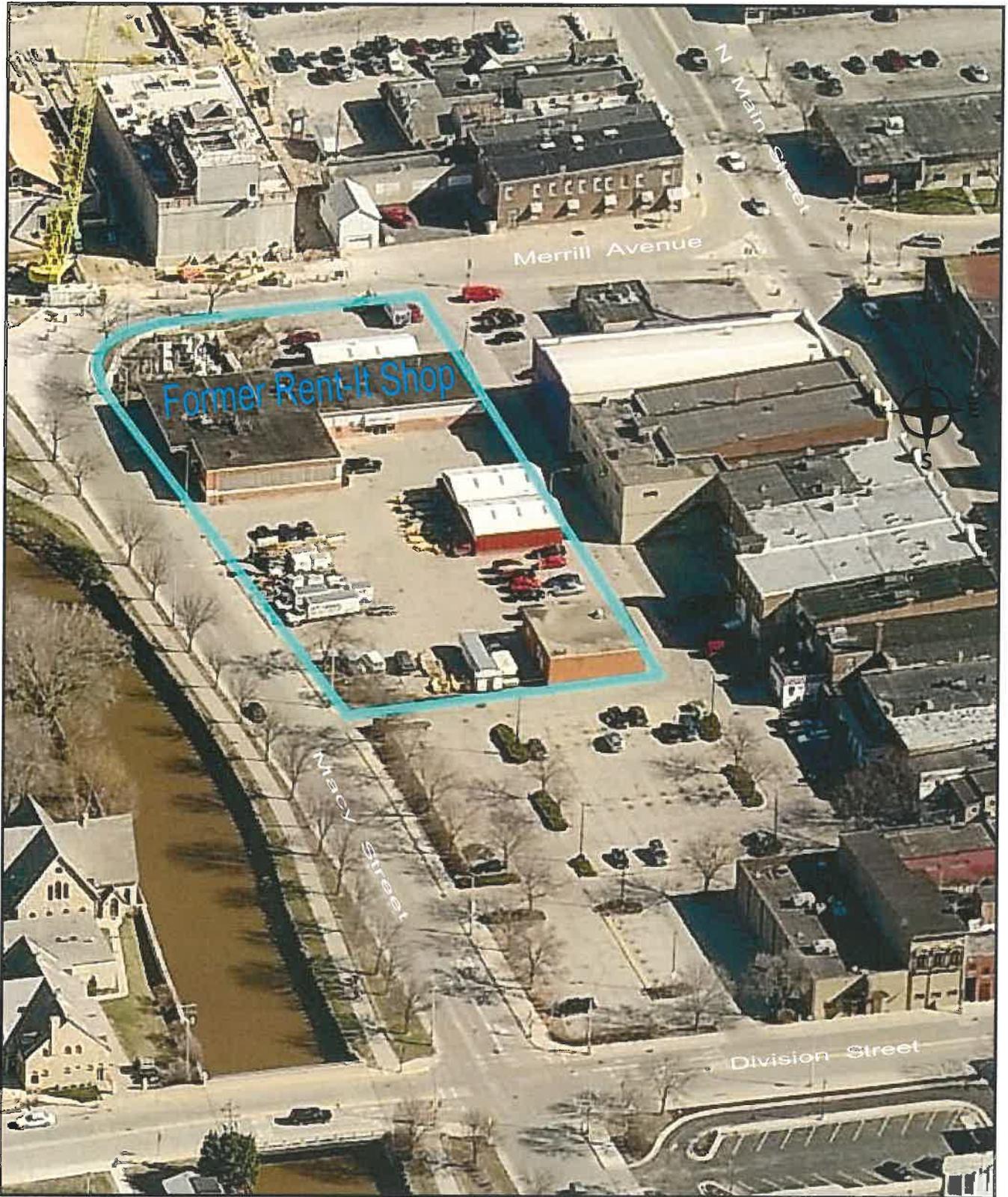
OWNER:  
RIVERSIDE SENIOR, LLC  
84 EAST 1ST STREET  
FOND DU LAC, WI

PROJECT:  
RIVERSIDE SENIOR APARTMENTS  
47 N. MACY ST. - APARTMENT SPACE  
57 N. MACY ST. - TENANT SPACE  
FOND DU LAC, WI

SHEET ISSUE:  
SEPTEMBER 11, 2012  
REVISIONS:  
OCT 11, 2012

# Building Facade Linear Measurements

APPEAL NO. 2013-24 – 57 NORTH MACY STREET



# APPEAL NO. 2013-24 – 57 NORTH MACY STREET

## SOUTH BUILDING FACADE – VIEW LOOKING NORTH



## NORTH BUILDING FACADE FACING MERRILL – VIEW LOOKING SOUTH



# APPEAL NO. 2013-24 – 57 NORTH MACY STREET

## WEST BUILDING FAÇADE – MACY STREET VIEW



# APPEAL NO. 2013-24 – 57 NORTH MACY STREET

## SOUTH BUILDING FAÇADE – VIEW LOOKING NORTH



# board of appeals memorandum

**Date:** July 31, 2013  
**To:** Board of Appeals  
**From:** Joellyn Dahlin, Principal Planner   
**RE:** Appeal No. 2013-24

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**Location:** 57 North Macy Street

**Applicant:** Commonwealth Coffee Company LLC

**Zoning:** Site: B-3 (Central Shopping)  
North: B-3  
South: B-3  
East: B-3  
West: B-3

**Land Use:** Site: Multiuse Building – Residential Apartment and  
Coffee Shop (first floor) – Construction in Progress  
North: City Waterworks  
South: City Parking Lot #13  
East: Alley/Main Street Businesses  
West: FDL River

**Request:** Allow ground sign in downtown business district, eliminate height clearance for ground sign, and allow internally illuminated cabinet wall sign.

## Analysis

The subject property is located in the B-3 (Central Shopping) zoning district. In addition to zoning regulations of the B-3 district, the property is affected by regulations of the Downtown Design Overlay District. The Downtown Design Overlay District sets standards for sign design including color, materials and illumination.

The subject property is the former site of the *Rent-It* shop. The 1.31-acre property has frontage on Merrill Avenue and Macy Street. Commonwealth Development purchased the property and removed multiple buildings from the site. Construction of a mixed-use building is underway. A coffee shop is planned to occupy a portion of the first floor of the building, with apartments located on the upper floors. The site differs from the typical Main Street property because of size, two on-site parking lots, and landscape setbacks along two streets. A parking lot for the coffee shop is sited on the north side of the building, with driveway access from Merrill Avenue. The main entry to the coffee shop is on the north side of the building. The second parking lot and drive-thru for the coffee shop is located on the south side of the building.

The variance request affects signage for the coffee shop.

Ground signs are not permitted in the B-3 zoning district. The zoning code restriction reflects the general character of the downtown with most storefronts situated at front lot lines. A ground sign is proposed for the coffee shop, sited within the landscape area on the west side of the Merrill Avenue driveway. The purpose of the sign is to identify the business and direct customers to the parking area and coffee shop entrance. The proposed sign is 5'6" high and 7 feet wide. The structure would match materials of the building and includes decorative end caps. Actual sign area is minimal - a 36" round internally illuminated sign, affixed to both sides of the sign structure. The proposed sign area is significantly less than what would otherwise be permitted in a business district that allows ground signs. The *Rent-It* shop had ground signs – a pole sign facing Merrill (4'x8') and one facing Macy Street (4'x10').

The location of the proposed monument sign does not comply with height clearance requirements for siting within 10 feet of a driveway. The sign is within 5 feet of the driveway. A monument sign is situated at grade and does not provide aboveground clearance. Specific to this case, the clearance requirement does not serve its true purpose because of the one-way traffic direction of Merrill Avenue. Adequate setback

from the public sidewalk and the driveway is provided to assure the safety of pedestrians and vehicles.

The third issue of the variance request affects a proposed wall sign. Wall signage is permitted and the size of the proposed wall signage complies with code requirements. Design guidelines stipulate that sign shape, color, materials and illumination should be complimentary to the character and architecture of a building. This is particularly important for historic buildings and buildings with significant architectural character and features. Downtown Design Guidelines do not allow internally illuminated wall cabinet signs.

One internally illuminated cabinet sign is proposed on the north wall of the coffee shop. The sign is a 36" round cabinet with the same design and area of the illuminated round signs on the proposed monument sign. The sign also mimics the design of a projecting sign for the coffee shop proposed on the west side of the building. In comparison, the cabinet sign and projecting sign are similar to two signs previously approved for the former JR's on Main Street. Similarly, the Main Exchange has an illuminated projecting sign.

The task of the Board of Appeals is to determine exceptions for allowable signs (ground sign and illuminated wall cabinet sign) and for the placement of the ground sign. The issue of the overall sign plan for the property – including design, color, placement and illumination – is subject to approval of the Downtown Architectural Review Board. The DARB will review all signage for the property at its meeting of August 6<sup>th</sup>. Reflective of DARB's pending review, a conditional approval of the variance is recommended.

The contemporary architecture of the new building, the limited amount of signage planned, the location of the property removed from Main Street, and the substantial size of the property warrant exceptions to sign regulations. Variance approvals for properties with similar conditions have been approved for Fox Valley Savings Bank (two ground signs and electronic message center) and the former Windhover (ground sign and electronic message center).

### Statement of Hardship or Practical Difficulty

**To justify approval of a variance, the hardship to support an exception to zoning regulations must directly relate to the physical character of the *property*, not the personal circumstances or preference of the *property owner* or tenant.**

The contemporary architectural design of the new building, the significant property size and location, and the intended purpose of the signs for business identification support approval of an exception to sign regulations.

### Statement of Findings

*To grant the requested variance, the Board of Appeals must find:*

1. The proposed variance is not contrary to the public interest;
2. The property has a special or unique condition; and
3. The special condition of the property creates an unnecessary hardship.

### Making and Taking of Precedent

A decision to approve or deny a variance request must be based on the merit of the individual case. Where a history of variance requests provide similar accounts of circumstances, a reasonable consistency between decisions would be appropriate.

### Recommendation

**A motion to approve or deny a variance request must state the findings in support of the action taken.**

Community Development staff suggest a motion to **approve the variance request** based on findings referenced herein, and specifically because of the contemporary architectural design of the new building, the significant property size and location, and the intended purpose of the signs for business identification.

Conditions of approval shall include:

1. Sign design, including colors, materials, illumination and placement is subject to approval by the Downtown Architectural Review Board. Allowable signage for the property shall reflect the variance request and any conditions of the Downtown Architectural Review Board.
2. Temporary advertising banners and other displays are not permitted. One grand opening display is permitted upon issuance of a permit by the Building Inspector.

Parcel Number	Mailing Address 1	Mailing Address 2	Mailing City	Mailing State	Mailing Zip	Site Address
FDL-15-17-10-43-522-00	6 N MAIN ST		FOND DU LAC	WI	54935	6 N MAIN ST
FDL-15-17-10-43-619-00	% INDUSTRY CONSULTING ICG	PO BOX 810490	DALLAS	TX	75381	8 S MAIN ST
FDL-15-17-10-43-521-00	427 PINE TREE DR		FOND DU LAC	WI	54935	8 N MAIN ST
FDL-15-17-10-43-524-00	2 N MAIN ST		FOND DU LAC	WI	54935	2 N MAIN ST
FDL-15-17-10-43-514-00	951 MEQUON AVE		FOND DU LAC	WI	54935	24 N MAIN ST
FDL-15-17-10-43-515-00	951 MEQUON AVE		FOND DU LAC	WI	54935	22 N MAIN ST
FDL-15-17-10-43-526-00	% CITY CLERK	P O BOX 150	FOND DU LAC	WI	54936	17 N MACY ST
FDL-15-17-10-42-290-00	% CITY CLERK	P O BOX 150	FOND DU LAC	WI	54936	40 W REES ST
FDL-15-17-10-43-510-00	9551 NW 39TH CT		CORAL SPRINGS	FL	33065	32A N MAIN ST
FDL-15-17-10-43-511-00	9551 NW 39TH CT		CORAL SPRINGS	FL	33065	32 N MAIN ST
FDL-15-17-10-43-509-00	W3844 HILLCREST LANE		FOND DU LAC	WI	54937	36 N MAIN ST
FDL-15-17-10-42-294-00	N3323 HICKORY DR		WAUPUN	WI	53963	78 N MAIN ST
FDL-15-17-10-43-500-00	N5832 ROCKWOOD CT		FOND DU LAC	WI	54935	64 N MAIN ST
FDL-15-17-10-43-503-00	%COUNTRYSIDE AUTO	421 N MAIN ST	FOND DU LAC	WI	54935	54 N MAIN ST
FDL-15-17-10-43-504-00	%COUNTRYSIDE AUTO	421 N MAIN ST	FOND DU LAC	WI	54935	50 N MAIN ST
FDL-15-17-10-43-505-00	%COUNTRYSIDE AUTO	421 N MAIN ST	FOND DU LAC	WI	54935	48 N MAIN ST
FDL-15-17-10-43-525-00	516 SARAH DR		FOND DU LAC	WI	54935	15 W DIVISION ST
FDL-15-17-10-43-502-00	926 MEQUON AVE		FOND DU LAC	WI	54935	56 N MAIN ST
FDL-15-17-10-43-517-00	18 N MAIN ST		FOND DU LAC	WI	54935	18 N MAIN ST
FDL-15-17-10-43-518-00	18 N MAIN ST		FOND DU LAC	WI	54935	16 N MAIN ST
FDL-15-17-10-43-516-00	W5347 GARDEN DR		FOND DU LAC	WI	54935	20 N MAIN ST
FDL-15-17-10-43-508-00	42 N MAIN ST		FOND DU LAC	WI	54935	42 N MAIN ST
FDL-15-17-10-43-513-00	42 N MAIN ST		FOND DU LAC	WI	54935	28 N MAIN ST
FDL-15-17-10-43-512-00	30 N MAIN ST		FOND DU LAC	WI	54935	30 N MAIN ST
FDL-15-17-10-43-506-00	293 14TH ST		FOND DU LAC	WI	54935	46 N MAIN ST
FDL-15-17-10-43-507-00	293 14TH ST		FOND DU LAC	WI	54935	44 N MAIN ST
FDL-15-17-10-43-519-00	14 NORTH MAIN ST		FOND DU LAC	WI	54935	14 N MAIN ST
FDL-15-17-10-43-529-01	54 E 1ST ST		FOND DU LAC	WI	54935	57 N MACY ST
FDL-15-17-10-43-532-00	BISHOP AND CHAPTER	51 W DIVISION ST	FOND DU LAC	WI	54935	51 W DIVISION ST
FDL-15-17-10-42-292-00	PO BOX 60		ABERDEEN	SD	57402	84 N MAIN ST