

# BOARD OF APPEALS AGENDA

September 12, 2016  
3:00 PM

Meeting Room D  
City-County Government Center

160 South Macy Street  
Fond du Lac, Wisconsin

## I. CALL TO ORDER

- A. Attendance
- B. Declaration Quorum Present

## II. APPROVAL OF MINUTES

August 1, 2016

## III. HEARINGS

- A. 143 W 2<sup>nd</sup> Street (Buechel)  
Appeal No. 2016-09

### **Zoning Code Regulation:**

Chapter 720, Schedule III, requires a minimum front yard building setback of 25 feet in the R-3 zoning district and allowable lot coverage of 35%.

### **Variance Request:**

Reduce front yard building setback to 6' 10" and increase allowable lot coverage to 37% for construction of uncovered porch.

- B. 427 Henry Street (Wood)  
Appeal No. 2016-10

### **Zoning Code Regulations:**

Chapter 720, Section 720-11 (14)(a) [1] states a detached garage shall not cover a ground area greater than that covered by the residential building.

Chapter 720, Section 720-11 (14)(a) [1] states where a lot is more than 10,000 square feet in area, and where the property owner desires to consolidate the allowable garage area of 650 square feet and the

*The City of Fond du Lac provides equal opportunities and services to all individuals, including those individuals with disabilities.*

allowable area of a storage building (200 square feet), a garage area of up to 850 square feet may be permitted.

**Variance Request:**

1. Construct addition to detached garage, where the total area of the garage (1440 square feet) exceeds the ground area of the residence (1024 square feet).
2. Increase allowable garage size from 850 square feet to 1440 square feet.

- C. 6 Elm Acres Drive (Carpenter)  
Appeal No. 2016-11

**Zoning Code Regulations:**

Chapter 720, Section 720-11 (9)(a) [1] allows an open fence not to exceed four feet maximum height in the front yard of a residential lot.

Chapter 720, Section 720-11 (10)(a) [1] allows a solid fence with a maximum height of six feet in the side or rear yard area of a residential lot.

**Variance Request:**

Construct 6'-high solid fence in the front yard of a residential lot.

**IV. ADJOURN**

## BOARD OF APPEALS MINUTES

August 1, 2016  
3:00 P.M.

Meeting Room D  
City-County Government Center

160 South Macy Street  
Fond du Lac, Wisconsin

### CALL TO ORDER

ROLL CALL: Present: Scott Block  
Howard Floeter  
Jerry Lauby  
Kirsten Quam

Absent: Alexander Fiebig  
Dan Hebel  
Thomas Leu  
John Piper  
Matthew Schoenleber

Administrative Staff: Joellyn Dahlin, Principal Planner  
Doug Hoerth, Chief Inspector

Chairperson Quam declared a quorum present.

### APPROVAL OF MINUTES

June 6, 2016

Motion made by Lauby to approve the minutes of the June 6, 2016 meeting of the Board of Appeals.

Seconded by Quam.

ROLL CALL VOTE: Aye – Block, Floeter, Lauby, Quam  
Nay - None

Carried.

### HEARINGS

**412 Grove Street and 504 Grove Street**  
Appeal No. 2016-08

#### **Code Requirement:**

Chapter 720, Schedule 720-10 – E. Lot Division, states that no lot shall hereafter be divided into two or more lots unless all lots resulting from such division shall have lot area, depth and width as required in this chapter.

**BOARD OF APPEALS MINUTES**

August 1, 2016

Page 2

Chapter 720, Schedule III – Bulk Requirements Residential Districts, requires a minimum lot width of 80 feet, minimum lot depth of 125 feet, and minimum lot area of 10,000 square feet for the creation of a new lot in the R-1 zoning district.

**Proposal:**

Reduce minimum lot width, depth and area to divide existing lot (512 Grove Street) into two new lots that each measure 60' x 106' with a lot area each of 6360 square feet, and adjust the lot boundaries and area of the adjacent lot (504 Grove Street) to allow a lot width of 74 feet, lot depth of 106 feet (west lot line), and lot area of 9380 square feet.

Appeared in Support:

Gary Shea, Petitioner, 338 Edgewater Road, Sheboygan

Motion made by Floeter to approve the variance request to reduce the minimum lot width, depth and area to divide the existing lot into two lots and to adjust the lot boundaries and area of the adjacent lot because the proposed exceptions relate to development regulations appropriate for older residential areas.

Seconded by Quam.

ROLL CALL VOTE:                      Aye – Block, Floeter, Lauby, Quam  
Nay - None

Carried.

**ADJOURN**

Motion made by Lauby to adjourn.  
Seconded by Quam.

ROLL CALL VOTE:                      Aye – Block, Floeter, Lauby, Quam  
Nay - None

Carried.

Meeting adjourned at 3:05 pm.

MARGARET HEFTER  
CITY CLERK

MH/ke

CITY OF FOND DU LAC  
**ZONING PETITION - VARIANCE**



**PROPERTY ADDRESS OF VARIANCE REQUEST:** 143 W 2nd St 7DL

Tax Key Number (Vacant Land): \_\_\_\_\_

Petitioner: LeRoy Buechel 143 W 2nd St 7DL  
(Name) (Address)

Petitioner Phone Number: [REDACTED] \_\_\_\_\_

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

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

**PROPOSAL**

A variance is an exception to a requirement of the zoning code.  
Describe the requested code exception(s) for your variance request:

A. 6ft by 20 ft - porch - deck in front yard

**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 physical condition of your property that makes compliance with zoning regulations difficult or impossible:**

Alley on one side - 3 apartment building and sidewalk on other side  
easement in the back - no privacy in the back yard people and cars  
coming and going. back door is ground level. no room ~~in the back~~ in the back

Petitioner Signature: LeRoy Buechel

because of the shape of the house.

Appeal No. 2016-09 – 143 W 2<sup>nd</sup> Street



2016 Property Records for City of Fond du Lac, Fond du Lac County

August 1, 2016

Tax key number: FDL-15-17-15-21-011-00

Property address: 143 W 2nd St

Neighborhood / zoning: Waterburys/Drurys Addn / R-3.75

Traffic / water / sanitary: Light / City water / Sewer

Legal description: SLOCUMS ADD BEG AT SE COR LOT 1 BLK 1; TH N 126FT TO NE COR LOT 2; TH W 22.6FT ALG N LINE LOT 2; TH S 30.2FT; TH W 21.75FT; TH S 95.97FT TO S LI LOT 1; TH E 39.88FT TO BEG

Summary of Assessment	
Land	\$8,600
Improvements	\$58,800
Total value	\$67,400

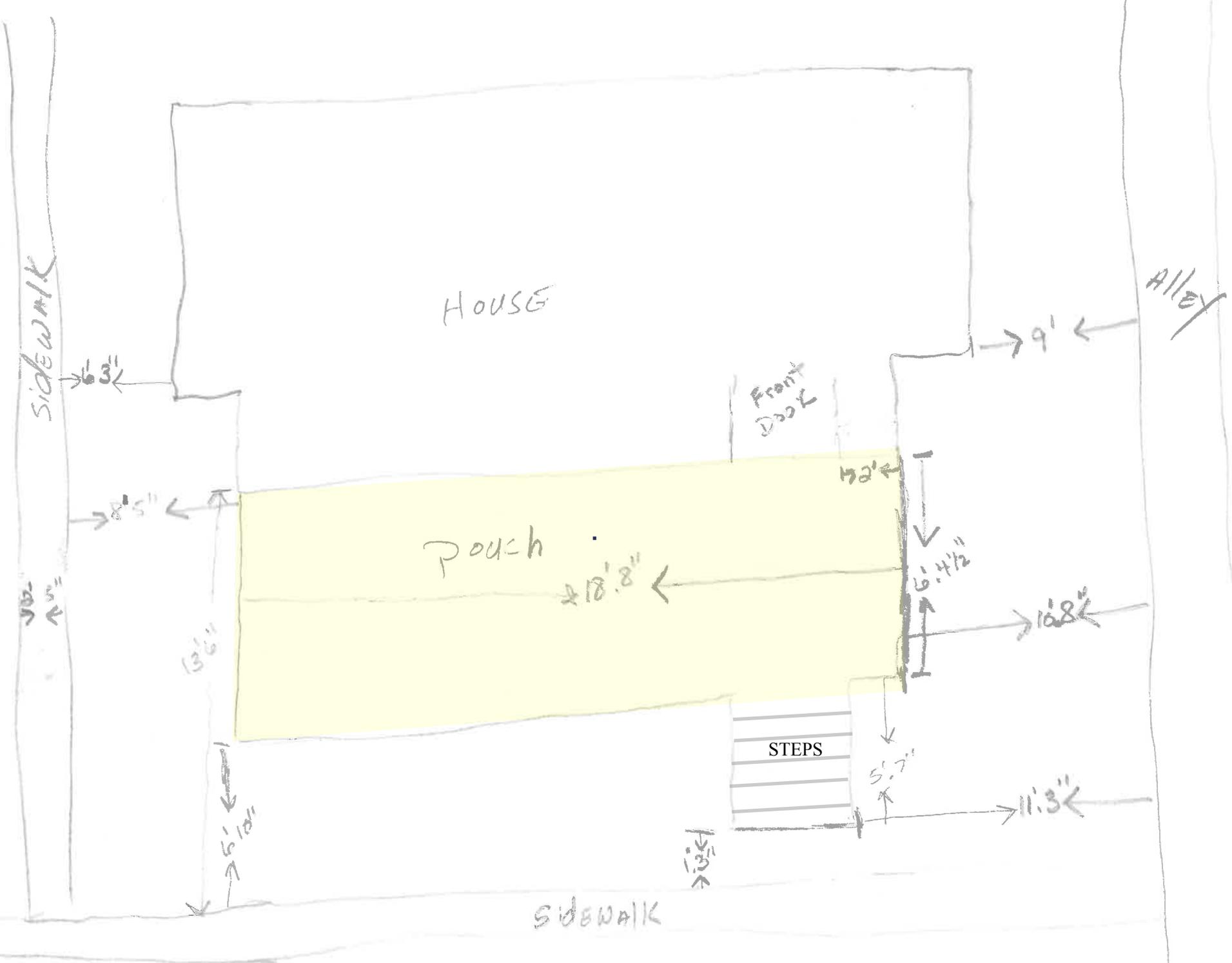
Summary of Last Valid Sale	
Sale date	
Sale price	

Land									
Qty	Tax Classification	Unit of Measure	Width	Depth	Sq Ft	Acres	Waterfront	Description	Assess Value
1	Residential	Front feet	40	113	4,530	0.104	None	regular, level	\$8,600
<b>Total land:</b>									<b>\$8,600</b>

Residential Building	
Year built: 1920	Full basement: 1,012 SF
Story height: 1 story w/attic	Crawl space: 133 SF
Style: Old style	Rec room:
Use: Single family	FBLA:
Exterior wall: Alum/vinyl	First floor: 1,125 SF
Roof type: Asphalt shingles	Second floor:
Heating: Gas, forced air	Finished attic: 356 SF
Cooling: None	Unfinished attic:
Bedrooms: 3	Unfinished area:
Family rooms:	Enclsd porch, frame, lower 42 SF
Baths: 1 full, 0 half	
Total rooms: 8	
Whirl / hot tubs:	
Masonry FPs:	
Metal FPs:	
Gas only FPs:	Masonry adjust:
Bsmt garage:	Grade factor: C-
Shed dormers:	Condition: Average
Gable/hip dorm:	Percent complete: 100%



Residential assessed building value: \$57,200 Total square feet: 1,481



PORCH CONSTRUCTED WITHOUT PERMIT



BACKYARD



# ***CITY OF FOND DU LAC - Memorandum***

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Department of Community Development

**Date:** September 8, 2016  
**To:** Board of Appeals  
**From:** Joellyn Dahlin, Principal Planner  
**Re:** Appeal No. 2016-09 – **143 W 2<sup>nd</sup>**

**Applicant:** LeRoy Buechel

**Zoning:** Site: R-3 (Residential – Central Area)  
North: R-3  
South: R-3  
East: R-3  
West: R-3

**Land Use:** Site: Single Family Dwelling  
North: Garage  
South: Church of Peace  
East: 2-Family Dwelling  
West: 3-Family Dwelling

## **Variance Request**

### **Code Requirements:**

Chapter 720, Schedule III, requires a minimum front yard building setback of 25 feet in the R-3 zoning district and allows a maximum lot coverage of 35%.

### **Proposal:**

Reduce front yard building setback to 6’10” for porch and increase allowable lot coverage to 37% .

## **Analysis**

The property is developed with a single family home and detached garage. A new porch at the front entry was constructed to replace a small porch that had fallen into disrepair. The new porch was constructed without a permit and in conflict with the front yard building

setback. In addition, the area of the new porch causes an increase in lot coverage for the property that exceeds the code allowance.

Prior to construction of the new porch, access to the home was provided with a 4'x4' porch. The petitioner could have replaced the former 4x4 porch with a building permit and no special approval; zoning regulations allow the construction of a 4'x4' porch platform regardless of the circumstances of the building setback. The new porch measures 6'4½" x 18'8"; the porch extends across the front of the dwelling. The new porch is not covered with a roof or awning and it is not enclosed.

The principal issue of the variance request affects the front yard building setback. The R-3 zoning district requires a minimum front yard setback of 25 feet. The petitioner's home is situated with a nonconforming setback of 13'6". The variance request proposes a setback of 6'10" for the new porch; the setback for the steps to the lot line is 1'3".

The petitioner's home is situated in an older neighborhood where most dwellings do not comply with the front yard setback requirement. In considering exceptions to setback requirements for porches and building additions, the Board of Appeals has consistently determined that neighborhood conditions must prevail in determining the reasonable application of setback requirements. Where neighborhood conditions present a pattern of nonconforming setbacks, approval of an exception to code requirements may be justified.

The setback of the new porch extends beyond existing setback conditions established in the neighborhood. However, considering that outdoor use of the property is limited by the small lot area and the space occupied by the existing home, flexibility of the setback requirement may be appropriate. Reflective of neighborhood conditions, a modified version of the variance request would not be unreasonable. A compromise to allow a 4' porch deck that extends across the front of the residence is suggested to meet the intent of zoning regulations and the desire of the petitioner for outdoor use of the property.

The second issue of the variance request affects allowable lot coverage. Lot coverage is the percent of the lot occupied by buildings and structures; porches and decks are included in the

calculation for lot coverage. In the R-3 district zoning regulations limit maximum lot coverage to 35 percent; the variance request proposes an increase to 37 percent. Prior to the construction of the larger porch, the property complied with lot coverage requirements.

### 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*.**

The proposed exceptions relate to property development constraints caused by a substandard lot.

### 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;
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 account of circumstances, a reasonable consistency between decisions would be appropriate.

### Recommendation

**A motion for variance approval or denial must state the findings in support of the action.**

Community Development staff suggests a motion to **approve a modified version of the variance request** because the proposed exceptions relate to property development constraints caused by a substandard lot.

Conditions of approval shall include:

1. A maximum porch depth of 4 feet shall be permitted; the porch width may extend across the full front of the building. A building permit is required.
2. The porch shall not be expanded, covered, or enclosed at any time in the future.

Board of Appeal No. 2016-09  
143 W 2nd Street

Parcel Number	Site Address	Mailing Address 1	Mailing City	Mailing State	Mailing Zip
FDL-15-17-15-21-033-00	124 HARRISON PL	N2249 BROTHERTOWN BEACH RD	CHILTON	WI	53014
FDL-15-17-15-21-008-00	118 S MILITARY RD	111 CUMBERLYNN DR	FOND DU LAC	WI	54935
FDL-15-17-15-21-004-00	94 S MILITARY RD	94 S MILITARY RD	FOND DU LAC	WI	54935
FDL-15-17-15-21-018-00	99 HARRISON PL	5318 SHAWANO TER	MADISON	WI	53705
FDL-15-17-15-21-060-00	163 RUGGLES ST	440 SATTERLEE ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-011-00	143 W 2ND ST	143 W 2ND ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-049-00	174 W 2ND ST	158 S MILITARY RD	FOND DU LAC	WI	54935
FDL-15-17-15-21-055-00	138 W 2ND ST	158 S MILITARY RD	FOND DU LAC	WI	54935
FDL-15-17-15-21-056-00	144 S MILITARY RD	158 S MILITARY RD	FOND DU LAC	WI	54935
FDL-15-17-15-21-057-00	150 S MILITARY RD	158 S MILITARY RD	FOND DU LAC	WI	54935
FDL-15-17-15-21-058-00	158 S MILITARY RD	158 S MILITARY RD	FOND DU LAC	WI	54935
FDL-15-17-15-21-022-01	158 FOREST AVE	15 N MARR ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-010-00	139 W 2ND ST	139 W 2ND ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-014-00	119 HARRISON PL	691 SOUTH GREEN BAY RD 174	NEENAH	WI	54956
FDL-15-17-15-21-015-00	113 HARRISON PL	1342 INVERNESS LN	NEENAH	WI	54956
FDL-15-17-15-21-028-00	98 HARRISON PL	691 SOUTH GREEN BAY RD 174	NEENAH	WI	54956
FDL-15-17-15-21-030-00	108 HARRISON PL	691 SOUTH GREEN BAY RD 174	NEENAH	WI	54956
FDL-15-17-15-21-013-00	151 W 2ND ST	4230 E TOWNE BLVD #325	MADISON	WI	53704
FDL-15-17-15-21-007-00	112 S MILITARY RD	112 S MILITARY ROAD	FOND DU LAC	WI	54935
FDL-15-17-15-21-029-00	102 HARRISON PL	102 HARRISON PL	FOND DU LAC	WI	54935
FDL-15-17-15-21-019-00	95 HARRISON PL	157 3RD ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-031-00	114 HARRISON PL	N7781 LAKESHORE DR	FOND DU LAC	WI	54937
FDL-15-17-15-21-027-00	92 HARRISON PL	92 HARRISON PL	FOND DU LAC	WI	54935
FDL-15-17-15-21-006-00	108 S MILITARY RD	225 E DIVISION ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-036-00	105 S BROOKE ST	105 S BROOKE ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-003-00	88 S MILITARY RD	PO BOX 1392	FOND DU LAC	WI	54936
FDL-15-17-15-21-005-00	100 S MILITARY RD	% PAUL HASENBERG	FOND DU LAC	WI	54935
FDL-15-17-15-21-017-00	103 HARRISON PL	% RODOLFO HERNANDEZ	HAYWARD	CA	94541
FDL-15-17-15-21-035-00	177 W 2ND ST	169 S MARR ST	FOND DU LAC	WI	54935
FDL-15-17-15-12-335-00	99 W 2ND ST	ACCOUNTING SERVICE CENTR	EAGAN	MN	55121
FDL-15-17-15-21-020-00	89 HARRISON PL	N5981 NELSON RD	FOND DU LAC	WI	54937
FDL-15-17-15-21-012-00	147 W 2ND ST	157 3RD ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-016-00	107 HARRISON PL	157 3RD ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-032-00	120 HARRISON PL	157 3RD ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-061-00	167 RUGGLES ST	208 WALKER ST	WAUPUN	WI	53963
FDL-15-17-15-21-034-00	126 HARRISON PL	42 S BOARDMAN ST	FOND DU LAC	WI	54935
FDL-15-17-15-12-344-01	90 W 2ND ST	90 W 2ND ST	FOND DU LAC	WI	54935
FDL-15-17-15-12-344-01	90 W 2ND ST	90 W 2ND ST	FOND DU LAC	WI	54935
FDL-15-17-15-21-009-00	124 S MILITARY RD	471 MORRIS ST	FOND DU LAC	WI	54935

CITY OF FOND DU LAC  
**ZONING PETITION - VARIANCE**



**PROPERTY ADDRESS OF VARIANCE REQUEST:** 427 HENRY ST

Tax Key Number (Vacant Land): \_\_\_\_\_

Petitioner: DAVID WOOD 427 HENRY ST  
(Name) (Address)

Petitioner Phone Number: \_\_\_\_\_

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

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

**PROPOSAL**

A variance is an exception to a requirement of the zoning code.  
Describe the requested code exception(s) for your variance request:

RESTORE CARS & MOTORCYCLES AS HOBBIE. A STORAGE  
OF CARS & BIKES. NEED SCISSOR TRUSSES TO HAVE ENOUGH  
CEILING HT FOR PORTABLE HOIST. DO TO MAJOR LOWER BACK  
SURG. & BOTH KNEE REPLACEMENT

**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 physical condition of your property that makes compliance with zoning regulations difficult or impossible:

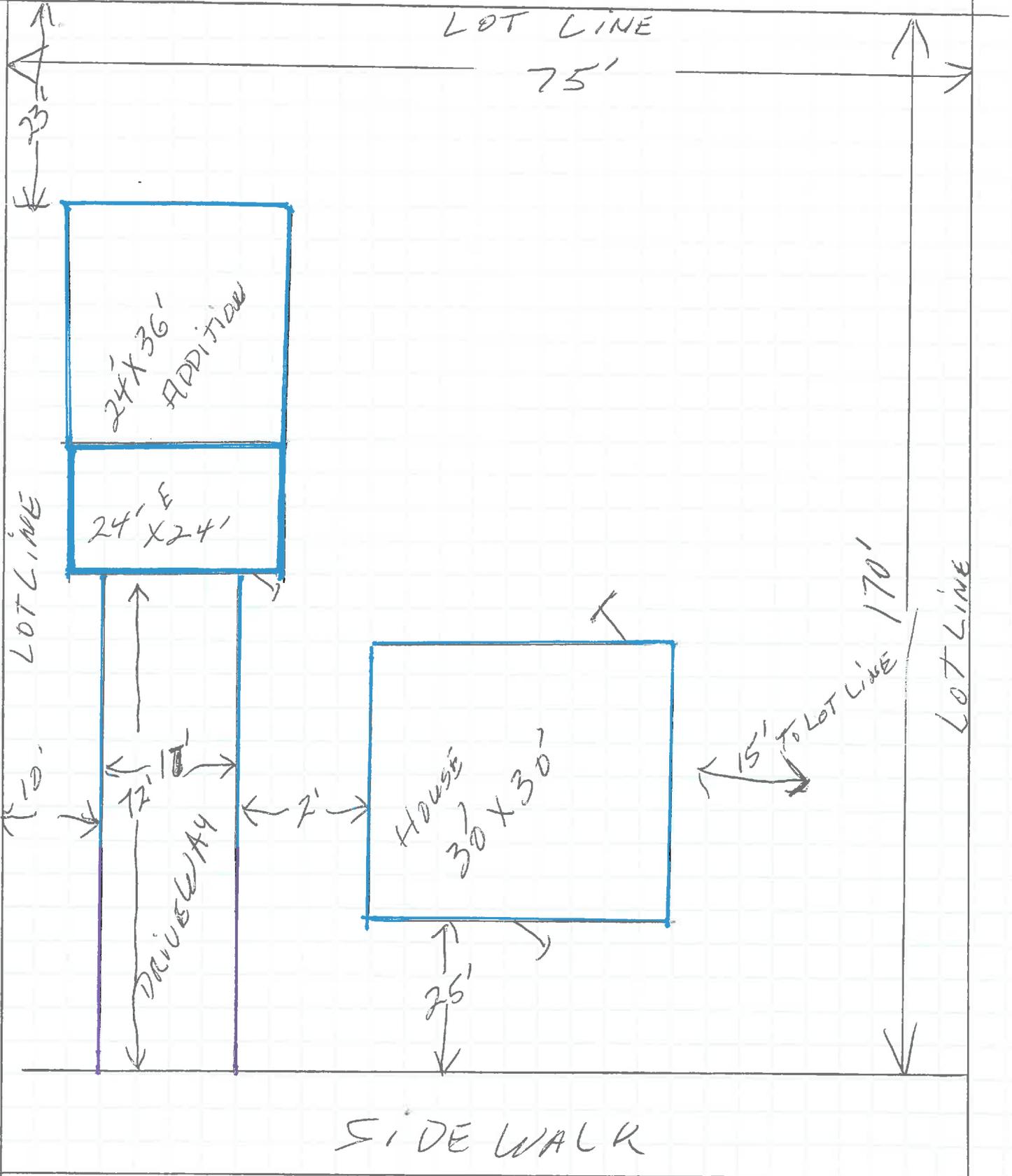
MAJOR LOWER BACK SURGERY & BOTH TOTAL  
KNEE REPLACE MENT'S CANNOT GET ON CREEPER  
OR KNEEL ANYMORE

Petitioner Signature: David Wood

Submit application package (application/site plan/photos/filing fee) to the Community Development Office  
(4<sup>th</sup> floor, City-County Government Center)

Appeal No. 2016-10 – 427 Henry Street





HENRY ST

N  
E  
S  
W

2016 Property Records for City of Fond du Lac, Fond du Lac County

August 30, 2016

Tax key number: FDL-15-17-10-22-297-00

Property address: 427 Henry St

Neighborhood / zoning: Shepards/Dockerys/McDonalds / R-3

Traffic / water / sanitary: Light / City water / Sewer

Legal description: PART OF OUTLOT 11 BLK 1 ORIGINAL PLAT & PART OF R A BAKERS SUBD TR 30 SEC 10-15-17. THE S. 72 FT OF LOT 2 OF CSM #2258 VOL. 12 PGS. 16 & 16A 873-543

Summary of Assessment	
Land	\$18,400
Improvements	\$76,800
Total value	\$95,200

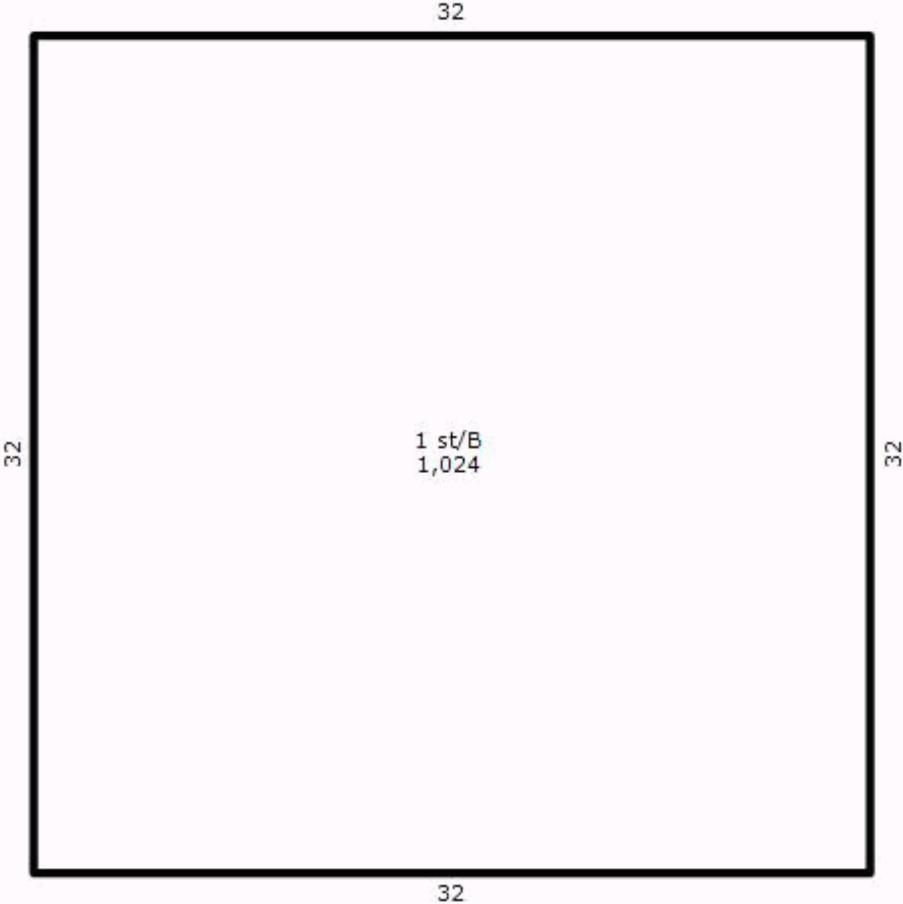
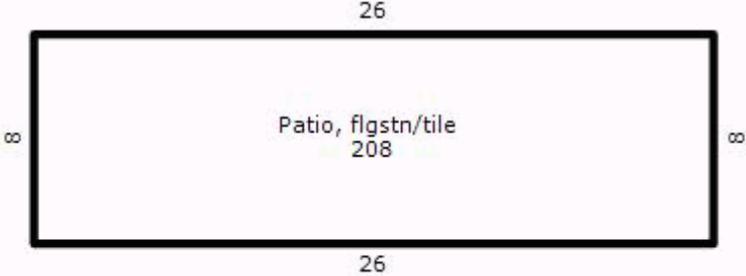
Summary of Last Valid Sale	
Sale date	
Sale price	

Land									
Qty	Tax Classification	Unit of Measure	Width	Depth	Sq Ft	Acres	Waterfront	Description	Assess Value
1	Residential	Front feet	72	174	12,545	0.288	None	regular, level	\$18,400
<b>Total land:</b>									<b>\$18,400</b>

Residential Building			
Year built:	1979	Full basement:	1,024 SF
Story height:	1 story	Crawl space:	
Style:	Ranch	Rec room:	224 SF
Use:	Single family	FBLA:	
		First floor:	1,024 SF
Exterior wall:	Alum/vinyl	Second floor:	
Roof type:	Asphalt shingles	Finished attic:	
Heating:	Gas, forced air	Unfinished attic:	
Cooling:	None	Unfinished area:	
Bedrooms:	3	Patio, flagstone or tile	208 SF
Family rooms:			
Baths:	1 full, 0 half		
Total rooms:	5		
Whirl / hot tubs:			
Masonry FPs:			
Metal FPs:		Masonry adjust:	
Gas only FPs:		Grade factor:	C
Bsmt garage:		Condition:	Average
Shed dormers:		Percent complete:	100%
Gable/hip dorm:			



Residential assessed building value: \$71,400 Total square feet: 1,024



2016 Property Records for City of Fond du Lac, Fond du Lac County

August 30, 2016

Other Building Improvements					
Qty	Description	Width	Depth	Height	Assess Value
1	Garage, detached, frame or cb	24	24		\$5,400

**Total OBIs: \$5,400**

Other Improvements		
Tax Class	Description	Assess Value

**Total other improvements:**

# ***CITY OF FOND DU LAC - Memorandum***

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Department of Community Development

**Date:** September 8, 2016  
**To:** Board of Appeals  
**From:** Joellyn Dahlin, Principal Planner  
**Re:** Appeal No. 2016-10 – **427 Henry Street**

**Applicant:** David Wood

**Property Owner:** Lori Mueller

**Zoning:** Site: R-1 (Single Family Residential)  
North: R-1  
South: R-1  
East: R-1  
West: R-1

**Land Use:** Site: Single Family Dwelling & Detached Garage  
North: Single Family Dwelling  
South: Single Family Dwelling  
East: Single Family Dwelling  
West: Single Family Dwelling

<b>Variance Request</b>
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**Code Requirements:**

Chapter 720, Section 720-11 (14)(a) [1] states a detached garage shall not cover a ground area greater than that covered by the residential building.

Chapter 720, Section 720-11 (14)(a) [1] states where a lot is more than 10,000 square feet in area, and where the property owner desires to consolidate the allowable garage area of 650 square feet and the allowable area of a storage building (200 square feet), a garage area of up to 850 square feet may be permitted.

**Proposal:**

Construct addition to detached garage, where the total area of the garage (1440 square feet) exceeds the ground area of the residence (1024 square feet) and increase allowable garage size from 850 square feet to 1440 square feet.

## **Analysis**

The property is developed with a single family home and detached garage. An exception to zoning regulations is requested for expansion of the garage. The variance request affects allowable garage size and allowable garage size relative to the size of the dwelling.

Zoning regulations allow a maximum detached garage size of 650 square feet; in addition a storage shed or gazebo of up to 100 square feet is permitted. The zoning code offers opportunity for a property owner to combine the allowable area of a garage and a storage building or gazebo into one building up to 750 square feet in size. Where a lot is more than 10,000 square feet in area, the allowable area of a storage building or gazebo is increased to 200 square feet; the allowable garage area of the two combined buildings is 850 square feet.

The existing 24'x24' detached garage on the subject property is a typical two-car garage; there is no storage building or other accessory building on the property. The lot is 12,545 square feet in area. Based on lot size, a garage of up to 850 square feet is permitted.

The petitioner would like to construct a 24'x36' addition to the existing garage, increasing the building size to 1440 square feet. The purpose of the larger garage is to accommodate hobby activities for the restoration and storage of cars and motorcycles. In the statement of hardship to support an exception to zoning regulations, the petitioner cites personal circumstances that cause difficulty in the pursuit of his hobby, and contends that the larger garage is needed to accommodate scissor trusses to increase ceiling height for the use of a portable vehicle hoist. A scissor truss is a type of roof truss used to create an interior sloped ceiling.

In addition to allowable building size, the variance request must address the allowable garage size relative to the size of the dwelling. Zoning regulations do not allow a garage that is larger in area than the ground area covered by the residential building. The purpose of this regulation is to ensure that the residence is the principal land use and the garage is incidental to the principal use.

The existing one-story home covers a ground area of 1024 square feet. The proposed garage is 1440 square feet in size. The proposed garage is 40% larger than the existing residence.

Property conditions do not prohibit an expansion of the garage in accord with zoning regulations and approval of the variance request is therefore without merit. Moreover, approval of the variance would open the door for the operation of a repair business in a residential garage contrary to zoning regulations.

### **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*.**

The subject property is larger than a typical residential lot and property conditions are not evident to prohibit compliance with zoning regulations. The larger lot size offers the potential for a garage size greater than that permitted for a typical residential lot.

The variance request relates to the personal preference of the petitioner; the hardship is self-imposed.

### **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;
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 account of circumstances, a reasonable consistency between decisions would be appropriate.

### **Recommendation**

**A motion for variance approval or denial must state the findings in support of the action.**

Community Development staff suggests a motion to **deny the variance request** because property conditions do not prohibit compliance with zoning regulations and the variance request relates to the personal preference of the petitioner, and therefore the hardship is self-imposed.

Board of Appeal No. 2016-10  
427 Henry Street

Parcel Number	Site Address	Mailing Address 1	Mailing City	Mailing State	Mailing Zip
FDL-15-17-10-22-298-00	426 HENRY ST	426 HENRY STREET	FOND DU LAC	WI	54935
FDL-15-17-10-22-325-00	400 SIBLEY ST	N6908 TOWER RD	FOND DU LAC	WI	54937
FDL-15-17-10-22-294-00	443 HENRY ST	443 HENRY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-320-00	360 SIBLEY ST	360 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-310-00	367 SIBLEY ST	367 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-276-00	352 W SCOTT ST	440 SATTERLEE ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-289-00	441 N HICKORY ST	441 N HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-279-00	366 W SCOTT ST	366 W SCOTT ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-275-00	348 W SCOTT ST	348 W SCOTT ST	FOND DU LAC	WI	54937
FDL-15-17-10-22-305-00	413 SIBLEY ST	15 N MARR ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-311-00	361 SIBLEY ST	15 N MARR ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-318-00	342 SIBLEY ST	342 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-319-00	356 SIBLEY ST	356 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-291-00	399 FRANKLIN ST	399 FRANKLIN ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-321-00	370 SIBLEY ST	370 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-300-00	400 FRANKLIN ST	400 FRANKLIN ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-288-00	447 N HICKORY ST	447 N HICKORY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-296-00	435 HENRY ST	435 HENRY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-281-00	378 W SCOTT ST	N7439 WINNEBAGO DR	FOND DU LAC	WI	54935
FDL-15-17-10-22-306-00	405 SIBLEY ST	405 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-323-00	386 SIBLEY ST	386 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-312-00	351 SIBLEY ST	351 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-312-01	0 SIBLEY ST	351 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-299-00	430 HENRY ST	430 HENRY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-324-00	392 SIBLEY ST	W6476 SUBWAY RD	FOND DU LAC	WI	54937
FDL-15-17-10-22-301-00	408 FRANKLIN ST	% CRAIG A LARSON	FOND DU LAC	WI	54937
FDL-15-17-10-22-307-00	401 SIBLEY ST	401 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-302-00	410 FRANKLIN ST	410 FRANKLIN ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-309-00	373 SIBLEY ST	373 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-297-00	427 HENRY ST	427 HENRY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-326-00	412 SIBLEY ST	412 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-267-00	416 MILL ST	416 MILL ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-284-00	400 W SCOTT ST	400 W SCOTT ST	FOND DU LAC	WI	54937
FDL-15-17-10-22-277-00	356 W SCOTT ST	356 W SCOTT ST	FOND DU LAC	WI	54937
FDL-15-17-10-22-313-00	345 SIBLEY ST	345 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-269-00	432 MILL ST	121 E REES ST #4	FOND DU LAC	WI	54935
FDL-15-17-10-22-278-00	364 W SCOTT ST	362 W SCOTT ST	FOND DU LAC	WI	54937
FDL-15-17-10-22-272-00	446 MILL ST	W3793 FOURTH ST RD	FOND DU LAC	WI	54937
FDL-15-17-10-22-274-00	340 W SCOTT ST	76 S MACY ST STE 2	FOND DU LAC	WI	54935
FDL-15-17-10-22-280-00	372 W SCOTT ST	372 W SCOTT ST	FOND DU LAC	WI	54937
FDL-15-17-10-22-293-00	446 HENRY ST	446 HENRY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-317-00	334 SIBLEY ST	334 SIBLEY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-282-00	388 W SCOTT ST	388 W SCOTT ST	FOND DU LAC	WI	54937
FDL-15-17-10-22-268-00	426 MILL ST	114 S MAIN ST #116	FOND DU LAC	WI	54935
FDL-15-17-10-22-285-00	406 W SCOTT ST	406 W SCOTT ST	FOND DU LAC	WI	54937
FDL-15-17-10-22-308-00	418 HENRY ST	418 HENRY ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-283-00	396 W SCOTT ST	396 W SCOTT ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-270-00	438 MILL ST	438 MILL ST	FOND DU LAC	WI	54935
FDL-15-17-10-22-290-00	403 FRANKLIN ST	667 PRAIRIE PKY	FOND DU LAC	WI	54935
FDL-15-17-10-22-322-00	378 SIBLEY ST	378 SIBLEY ST	FOND DU LAC	WI	54935

CITY OF FOND DU LAC  
**ZONING PETITION - VARIANCE**



**PROPERTY ADDRESS OF VARIANCE REQUEST:** 6 Elm Acres

Tax Key Number (Vacant Land): \_\_\_\_\_

Petitioner: Jamie Carpenter (Name) 983 W. Mason St (Address)  
Green Bay, WI

Petitioner Phone Number: \_\_\_\_\_

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

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

**PROPOSAL**

A variance is an exception to a requirement of the zoning code.  
Describe the requested code exception(s) for your variance request:

I would like to install a 6' fence along  
property on Johnson St. My neighbor  
has a 6' fence and it will help with  
noise from traffic.

**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 physical condition of your property that makes compliance with zoning regulations difficult or impossible:

I am looking for privacy and noise reduction  
off of Johnson St. A 4' fence does not  
give the privacy needed.

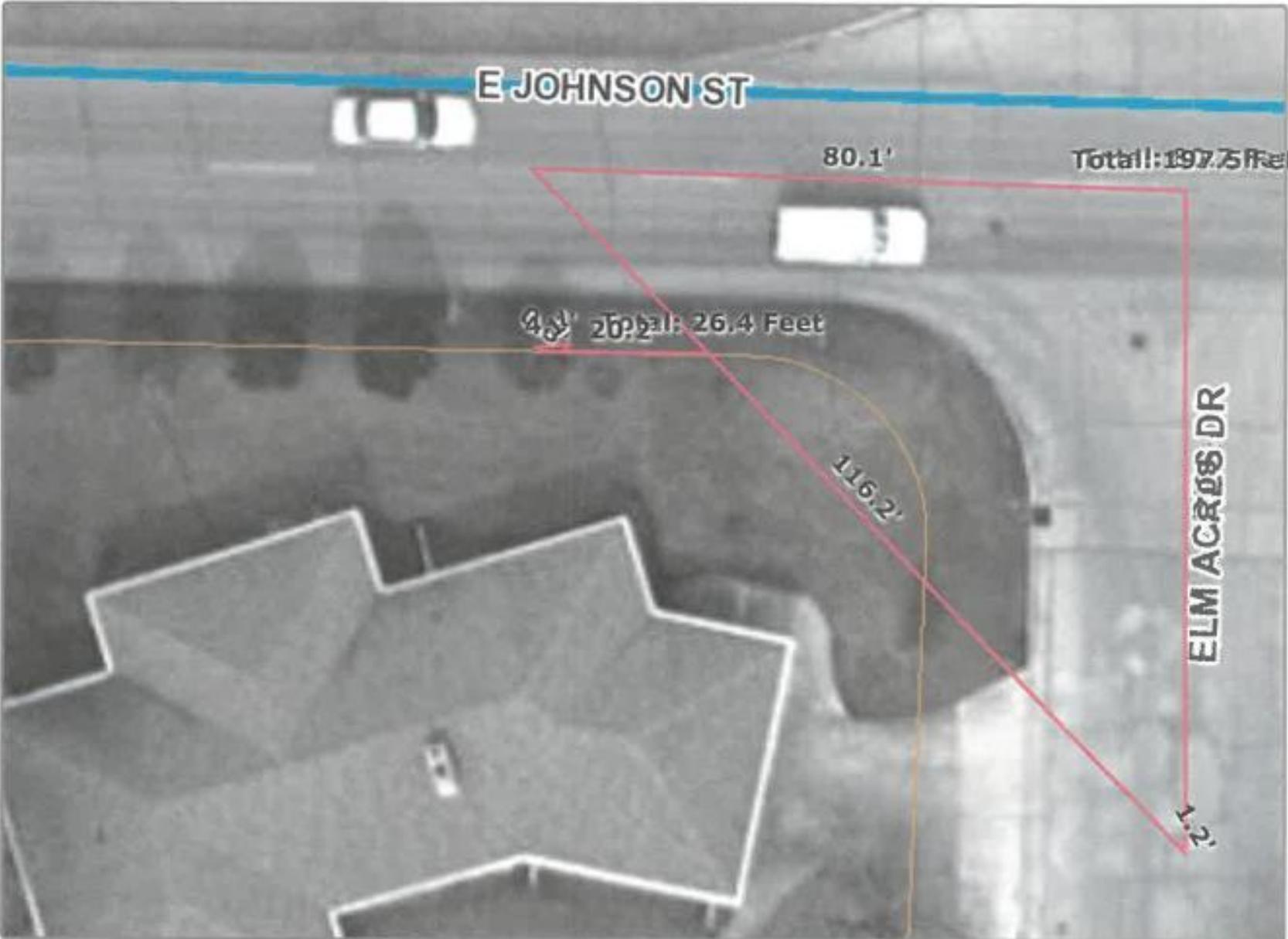
Petitioner Signature: Jamie Carpenter

Submit application package (application/site plan/photos/filing fee) to the Community Development Office  
(4<sup>th</sup> floor, City-County Government Center)





6 ELM ACRES DRIVE – VISION TRIANGLE



# PROPOSED FENCE MATERIALS



Elm Acres

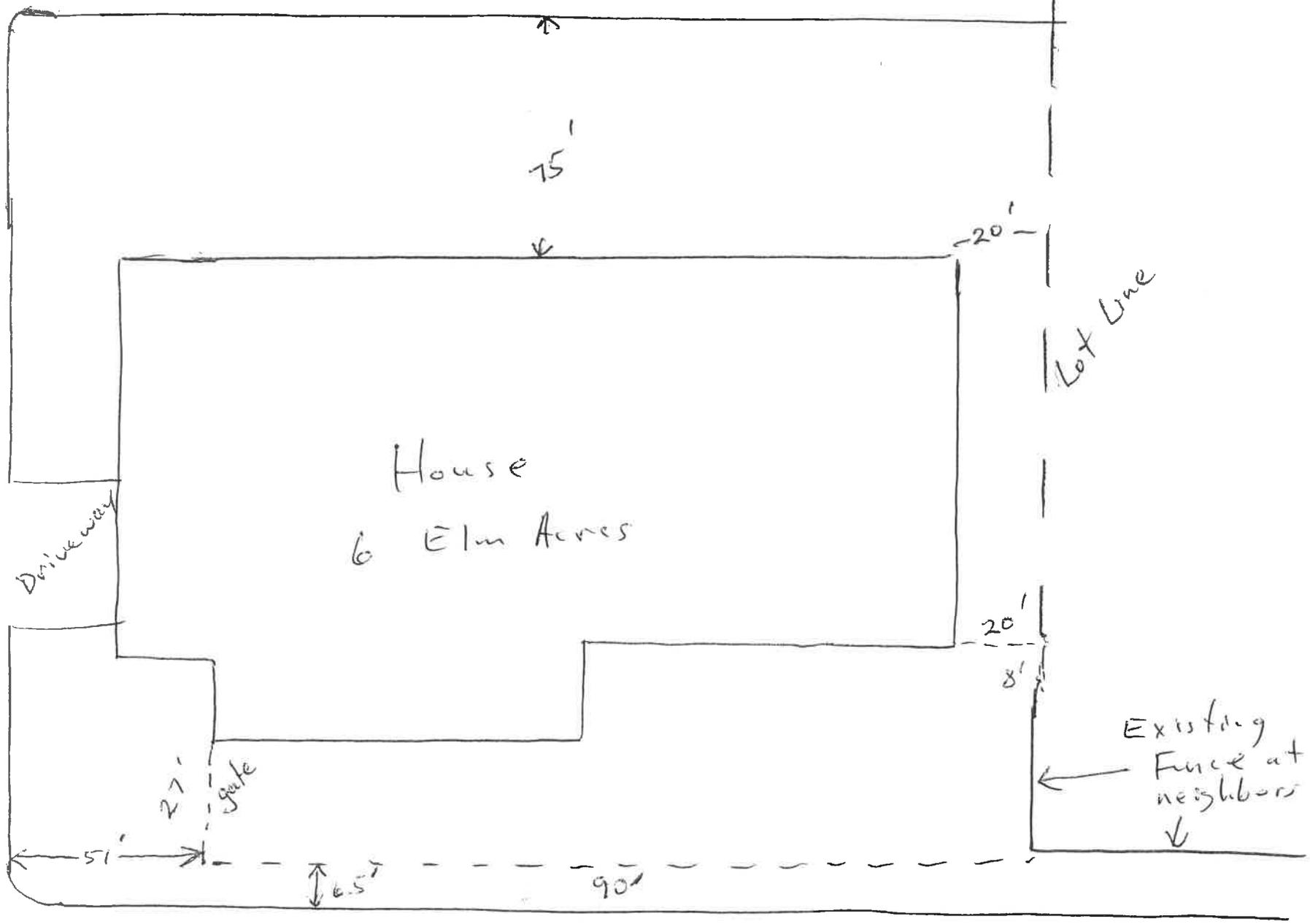
Driveway

House  
6 Elm Acres

Lot Line

Existing  
Fence at  
neighbors

Johnson St.





# ***CITY OF FOND DU LAC - Memorandum***

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Department of Community Development

**Date:** September 8, 2016  
**To:** Board of Appeals  
**From:** Joellyn Dahlin, Principal Planner  
**Re:** Appeal No. 2016-11 – **6 Elm Acres Drive**

**Applicant:** Jamie Carpenter

**Zoning:** Site: R-1 (Single Family Residential)  
North: R-1  
South: R-1  
East: R-1  
West: R-1

**Land Use:** Site: Single Family Dwelling  
North: Moraine Park Technical College  
South: Single Family Dwelling  
East: Single Family Dwelling  
West: Single Family Dwelling

<b>Variance Request</b>
-------------------------

**Code Requirements:**

Chapter 720, Section 720-11 (9)(a) [1] allows an open fence not to exceed four feet maximum height in the front yard of a residential lot.

Chapter 720, Section 720-11 (10)(a) [1] allows a solid fence with a maximum height of six feet in the side or rear yard area of a residential lot.

**Proposal:**

Construct 6'-high solid fence in the front yard of a residential lot.

## **Analysis**

The subject property is located at the southwest corner of Elm Acres Drive and East Johnson Street. An exception to allowable fence height and fence materials is requested for the construction of a fence along the Johnson Street frontage of the property.

Property frontage that abuts a street is considered a front yard. The subject property has frontage on three streets and therefore has three front yards. The petitioner's home faces the south frontage of Elm Acres Drive; the driveway is located on the east frontage of Elm Acres Drive. The property frontage on East Johnson Street is also considered a front yard.

Fence height and fence materials are restricted within front yard areas for safety and aesthetic purposes. A fence within the front yard setback area is restricted to 4 feet in height and it must be fifty-percent open to provide for visibility of pedestrians and vehicles. A solid 6'-high fence is permitted within the side or rear yard area of a residential property.

The variance proposes a 6'-high solid fence along the Johnson Street frontage of the property. Due to the placement of the home on the lot, the property area on the north side of the dwelling acts as the rear yard of the property. The fence material is a decorative resin constructed to give the appearance of a rock wall.

The petitioner proposes to align the fence with an existing fence that is situated on the north lot line of the adjacent property to the west. The proposed fence would extend east from the neighboring fence for 90 feet and then extend south for 27 feet to completely enclose the yard area on the north side of the dwelling. The petitioner would like to situate the fence on the north side of several existing trees on the property; a survey to determine the location of the lot line will be necessary to precisely define the exact location of the fence.

In considering exceptions to zoning requirements the Board of Appeals has consistently concluded that neighborhood conditions must prevail in determining the reasonable application of zoning regulations. Where neighborhood conditions present a pattern of nonconforming circumstances, approval of an exception to code requirements may be

justified. Specific to the petitioner's request, the proposed fence height mirrors the neighboring fence height to the west. Two other properties on Elm Acres Drive east of the petitioner's property also have 6'-high solid fences along the Johnson Street frontage of each lot.

The proposal has been reviewed by the City Engineer. The proposed fence is situated outside of the vision triangle and the location would not compromise pedestrian or traffic safety.

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*.**

Property circumstances of three front yards significantly limit the placement of a fence to create adequate yard area for enjoyment of the property. The proposed fence height is reflective of neighborhood conditions with the same fence height and solid construction.

### 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;
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 account of circumstances, a reasonable consistency between decisions would be appropriate.

### Recommendation

**A motion for variance approval or denial must state the findings in support of the action.**

Community Development staff suggests a motion to **approve the variance request** because the proposed exceptions relate to property circumstances of three front yards which

significantly limit the placement of a fence to create adequate yard area for enjoyment of the property, and also because the proposed fence height and design is reflective of neighborhood conditions with the same fence height and a solid construction.

Conditions of approval shall include:

1. A property survey prepared by a licensed professional shall be submitted with the building permit application to delineate the location of the north lot line. The fence shall be situated within the property boundaries; no part of the fence shall encroach into or over the public right-of-way.

Board of Appeals No. 2016-11  
6 Elm Acres Drive

Parcel Number	Site Address	Mailing Address 1	Mailing City	Mailing State	Mailing Zip
FDL-15-17-12-32-334-00	25 ELM ACRES DR	25 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-336-00	45 ELM ACRES DR	45 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-329-00	70 ELM ACRES DR	70 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-332-00	86 ELM ACRES DR	86 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-317-00	10 ELM ACRES DR	10 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-316-00	6 ELM ACRES DR	6 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-320-00	26 ELM ACRES DR	26 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-337-00	55 ELM ACRES DR	55 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-318-00	16 ELM ACRES DR	16 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-333-00	15 ELM ACRES DR	15 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-11-14-882-00	643 E JOHNSON ST	643 E JOHNSON ST	FOND DU LAC	WI	54935
FDL-15-17-12-32-335-00	35 ELM ACRES DR	35 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-339-00	75 ELM ACRES DR	75 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-11-41-002-00	172 N NATIONAL AVE	45 BELLE TERRE DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-338-00	65 ELM ACRES DR	706 E PIONEER RD	FOND DU LAC	WI	54935
FDL-15-17-11-14-883-00	651 E JOHNSON ST	W4478 MILL RD	FOND DU LAC	WI	54937
FDL-15-17-11-41-001-00	192 N NATIONAL AVE	500 WEST BROWN DEER RD	MILWAUKEE	WI	53217
FDL-15-17-12-32-331-00	80 ELM ACRES DR	80 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-23-500-00	235 N NATIONAL AVE	235 N NATIONAL AVE	FOND DU LAC	WI	54935
FDL-15-17-12-32-330-00	76 ELM ACRES DR	76 ELM ACRES DR	FOND DU LAC	WI	54935
FDL-15-17-12-32-319-00	20 ELM ACRES DR	20 ELM ACRES DR	FOND DU LAC	WI	54935