



Zoning Board of Adjustment Agenda  
Kenosha County Center, Conference Room A  
September 17, 2020

Notice is hereby given that a meeting will be held by the Zoning Board of Adjustment Committee on **Thursday, September 17, 2020 at 6:00 p.m.** at the Kenosha County Center Conference Room A, 19600 75th Street, Bristol, Wisconsin on the following requests:

**1. KELLI M. & JACOB C. KEYS - VARIANCE APPLICATION - TOWN OF WHEATLAND**

KELLI M. & JACOB C. KEYS, 36975 55th St., Burlington, WI 53105 (Owner), requesting a variance (Section III. P. 12.18.4-7: which states that accessory buildings on properties greater than 40,000 sq. ft. shall have a 10-foot side and rear yard setback) to allow the existence of an already constructed shed having a side yard setback of 5 feet from the east property line on Tax Key Parcel #95-4-119-111-3285, Town of Wheatland.

Documents:

[SUBMITTED APPLICATION.PDF](#)  
[EXHIBIT MAP.PDF](#)

**2. CITIZEN COMMENTS**

**3. APPROVAL OF MINUTES**

**4. OTHER BUSINESS ALLOWED BY LAW**

**5. ADJOURNMENT**

**NOTICE TO PETITIONERS**

The petitioners: Kelli M. & Jacob C. Keys shall be present at the hearing on Thursday, September 17, 2020 at 6:00 p.m. at the Kenosha County Center, Conference Room A, 19600 75th Street, Bristol, Wisconsin. You should also meet with your Town Planning Commission and/or Town Board before the date of this hearing. Petitioners in the Town of Somers will meet with the Town Board of Appeals.

**NOTICE TO TOWNS**

The Town of Wheatland is requested to be represented at the hearing on Thursday, September 17, 2020 at 6:00 p.m. at the Kenosha County Center, Conference Room A, 19600 75th Street, Bristol, Wisconsin. You are requested to either attend or send in your recommendation to the Board.



# COUNTY OF KENOSHA

December 2012

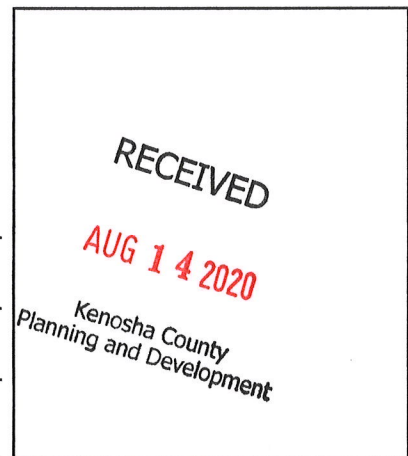
## Department of Planning and Development

### VARIANCE APPLICATION

Owner: Jacob & Kelli Keys

Mailing Address: 36975 55th Street  
Burlington, WI 53105

Phone Number(s): 801-835-5325



To the Kenosha County Board of Adjustment:

Please take notice that the undersigned was refused a Zoning Permit by the Kenosha County Department of Planning and Development for lands described below for the reason that the application failed to comply with the Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance. The owner or assigned agent herewith appeals said refusal and seeks a variance.

Parcel Number: 95-4-219-333-0716 Zoning District: R-2 ☐

Property Address: 36975 55th St. Burlington, WI, 53105 Shoreland: No ☐

Subdivision: Koch's Meadowbrooke Farms, Addition 2 Lot(s): 16 Block: 5

Current Use: Residential

Proposal: We propose to keep our shed with a 5 ft setback

REQUIRED BY ORDINANCE		VARIANCE REQUESTED
Section: <u>12.18.4-12</u>	- <u>10 ft. setback for property over 39,999 SF</u>	<u>5 ft. setback</u>
	- <u>5 ft. setback for property under 39,999 SF</u>	
Section: _____	- _____	_____
Section: _____	- _____	_____

## VARIANCE APPLICATION

An Area Variance is authorization by the Kenosha County Board of Adjustments to vary one or more of the dimensional or physical requirements of the applicable zoning law, code or ordinance in connection with some proposed construction.

The burden will be on you as property owner to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of the hearing. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and must then deny your application.

(1) Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered in each category below:

(A) Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

1A) We considered moving the shed 5 ft. to be compliant with existing standards. We reject this alternative for the following reasons. We called our town building inspector prior to putting the shed up to confirm requirements. We were told 5 ft. off of the property line and no permit was needed. After we built a retainage wall, brought in dirt and gravel and put the shed up, we received a letter in the mail saying that we needed a permit. We called our town building inspector to ask why and he said that the size of the shed was too large to do without a permit, but that we would be fine with it where it is at and we just needed to go get a permit. Upon obtaining a permit from Kenosha County, we noticed that the permit said a 10 ft. setback was required. We brought this back to the town building inspector and he simply said that we have to comply and move the shed. We believe that moving the shed 5 ft. would be unnecessarily burdensome as it would require the construction of an additional retainage wall due to the steep slope of our property (we selected the flattest part of our backyard to put the shed), and then lifting and moving the shed without compromising the structure. Where the shed sits now causes no harm to the public interest and does not undermine the purposes of the ordinance. The adjacent neighbors' septic is directly parallel to the shed, so they (or any future resident) could never put a building there.

(B) Alternatives you considered that require a lesser variance. If you reject such alternatives, provide the reasons you rejected them.

No such alternatives considered.

(2) Will there be an unnecessary hardship to the property owner to strictly comply with the ordinance?

*Unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome.*

*An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home or claiming that they need more outbuilding space than that permitted to store personal belongings). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.*

Yes, there will be an unnecessary hardship to strictly comply with the ordinance. We don't feel that moving the shed 5 ft. should be a burden that we have to take on after trying to be in compliance from the beginning. We were never trying to hide anything and only wanted to do it right. For the many reasons stated above, we feel that having to move the shed 5 ft would be unnecessarily burdensome. Please see below as well for additional reasoning for keeping the shed where it currently sits.

(3) Do unique physical characteristics of your property prevent compliance with the ordinance? If yes, please explain.

*Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with the ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.*

Yes, there are limited places to reasonably place the shed in our backyard due to the steep slope of our property into a drainage easement in the back (approximately) 1/3 of our property (see attached survey showing easement). This drainage easement puts our useable land under 40,000 square feet, which would put us in the 5 ft. setback requirement according to the "Summary of Regulations for Detached Accessory Buildings" in section 12.18.4-12 of the Ordinance Requirements.

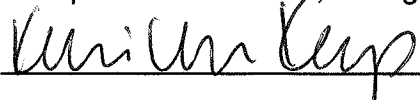
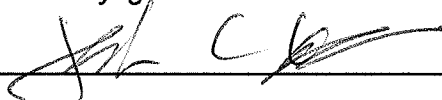
(4) What would be the effect on this property, the community or neighborhood and the public interest if the variance was granted? How can these impacts be mitigated.

*These interests are listed as objectives in the purpose statement of an ordinance and may include: drainage, visual impact, and fire safety and building code requirements.*

There would be no negative impact if this variance was granted. Our adjacent neighbors' septic is directly parallel to the shed, so they (or any future resident) could never construct a building in that location, therefore not causing an issue with the purpose of the setback requirement. Visually, the shed is aesthetically appealing where it is now and causing no harm to the community, neighborhood, public interest, or the direct adjacent neighbor (see attached letter from adjacent neighbor).

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*The undersigned hereby attests that the above stated information is true and accurate and further gives permission to Planning & Development staff and Board of Adjustment members to view the premises, in relation to the Appeal request made herein, during reasonable daylight hours.*

Owners Signature:  

Agent: \_\_\_\_\_ Signature: \_\_\_\_\_

Agents Address: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_

---



45-4-219-333-0716

**PLAT OF SURVEY**  
-OF-

LOT 16, BLOCK 5, KOCH'S MEADOWBROOKE FARMS ADDITION NO. 2, A SUBDIVISION BEING PART OF THE NORTHEAST 1/4 AND SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 2 NORTH, RANGE 19 EAST OF THE FOURTH PRINCIPAL MERIDIAN, IN THE TOWN OF WHEATLAND, KENOSHA COUNTY, WISCONSIN.

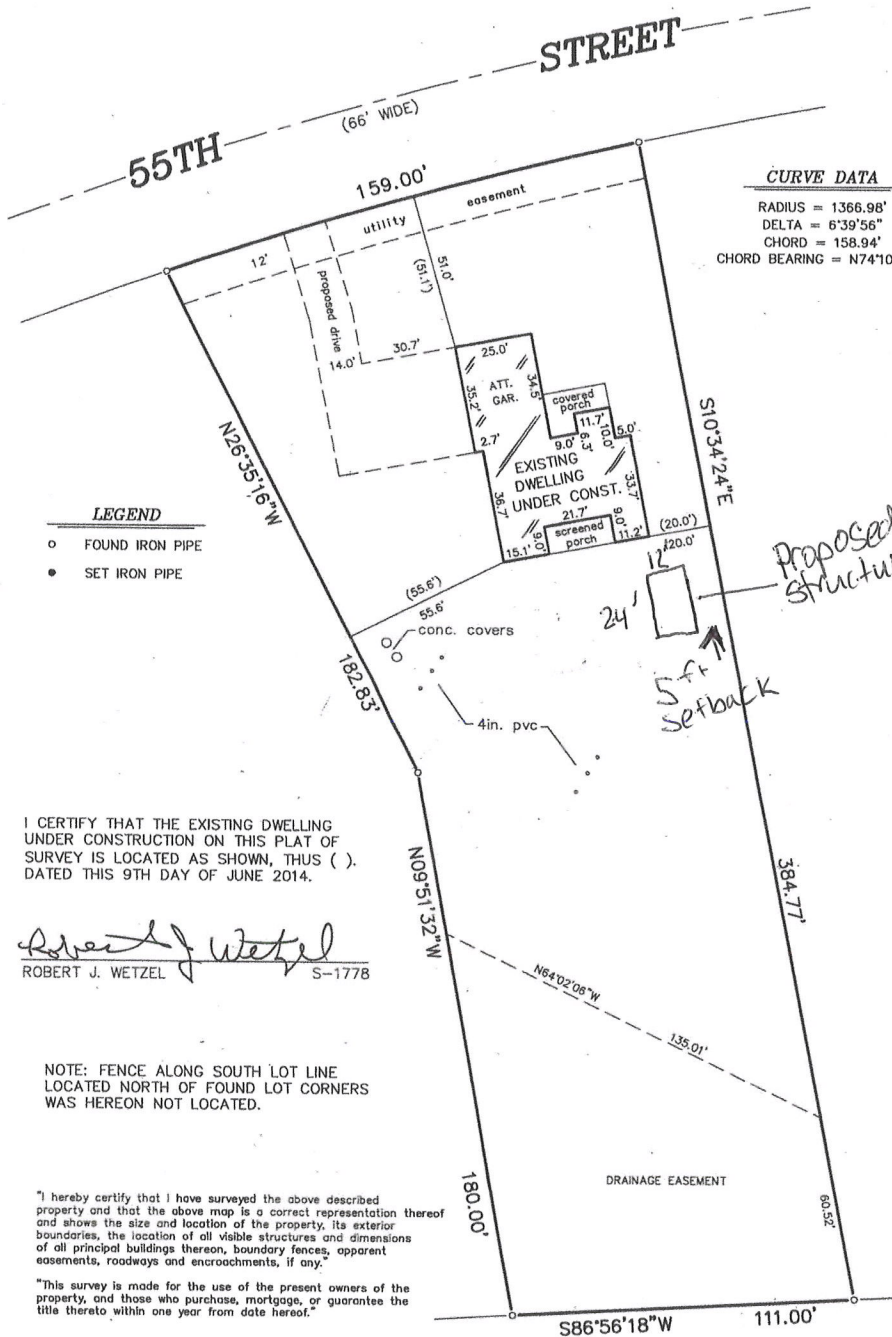
SURVEY FOR: RYAN SYREINI

SURVEY ADDRESS: 36975 55th STREET

RECEIVED

11 30 2014

Kenosha County  
Planning and Development



August 9, 2020

Kenosha County Planning and Zoning

Town of Wheatland Building Inspector

### **Introduction**

This letter is regarding Mr. Jake & Kelli Keys, who reside at 36975 55<sup>th</sup> Street within the Town of Wheatland. It is known a shed was assembled on his property in early summer, where now, a party has complained it was built without permit. My interest in this matter is that my western property line runs parallel to the Keys eastern property line, where the shed was assembled.

### **Background**

Since Spring of 2020, Mr. Keys informed me he was going to build a shed on his property for additional storage of lawn equipment. The shed was going to be a prefab or "kit" purchased from a local home improvement store. His original location for the shed was staked on the same eastern area of his property, adjacent to my western border, but about 20 feet south of its current location. Unfortunately, his yard poses significant challenges as there is an exceedingly small usable section of his back yard. Because of the small area of the yard and significant drop off, he had to move it up to where it currently sits.

I am aware of the zoning ordinances that stipulate where structures can be built in relation to property lines. Based on his usable property and challenging topography, I was under the belief that he was well within compliance of assembling the shed where it sits. Further, I am aware that Mr. Keys contacted the Town of Wheatland Building Inspector, Tim Popanda.

After at least two phone conversations, Mr. Keys said he received a verbal opinion from Mr. Popanda, that our understanding of the ordinance in relation to where the shed was going to be assembled was correct. Further, Mr. Keys could proceed with assembly as it did not require a permit.

### **Shed Placement**

Where Mr. Keys assembled the shed is a better position than originally planned. My septic field and vent stacks are in the same area on my side of the property line. His placement of the shed does not affect any current or potential for future building on my property, as the septic field will never permit a structure in that same area. As a result, it will not cause any problems for me or any future owners of this property.

Mr. Keys is very diligent with the maintenance and upkeep of his property. With the current landscaping and location of the shed, it is aesthetically pleasing from the road and from the backyard view of my property.

### **Opinion**

Mr. Keys and his father-in-law assembled the shed over the course of two months. At no point did I observe them alter or expand from his original plan. Mr. Keys did not have to ask my opinion or notify me what he was doing on his property. He did this as a courtesy and show transparency as a good neighbor would do.

Further, Mr. Keys showed his integrity and good moral character by contacting Mr. Popanda before starting his project. We all know there are people out there who blatantly and intentionally disregard the building / zoning rules, as well as failing to contact the building inspector. It is also known that dishonest people will alter their plans after receiving approval if they even contact the building inspector at all.

Mr. Keys made several good faith efforts to ensure he was following the ordinances and any needed permissions from the Town of Wheatland. At no time did he alter or expand the size of his shed. Unfortunately, any misunderstanding by the building inspector could have been avoided if he would have taken a few moments to stop at the Keys residence and verify plans. I know Mr. Popanda has a good reputation and has served various communities well. I am also aware his is a busy man.

### **Closing**

As a neighbor having a direct interest in this matter, I respectfully request that Mr. Keys variance to be granted. Moving his shed 5 feet would serve no functional purpose other than punitive. If he is forced to move the shed, it will also alter the aesthetics as it will appear abnormally offset. He made a continual good faith effort to ensure he was doing the right things and contacting the right people. Please feel free to call with any further questions.

Regards,

Joseph V. Patla  
36931 55<sup>th</sup> Street  
Burlington WI, 53105  
(262) 716-3343  
Jvpatla@gmail.com

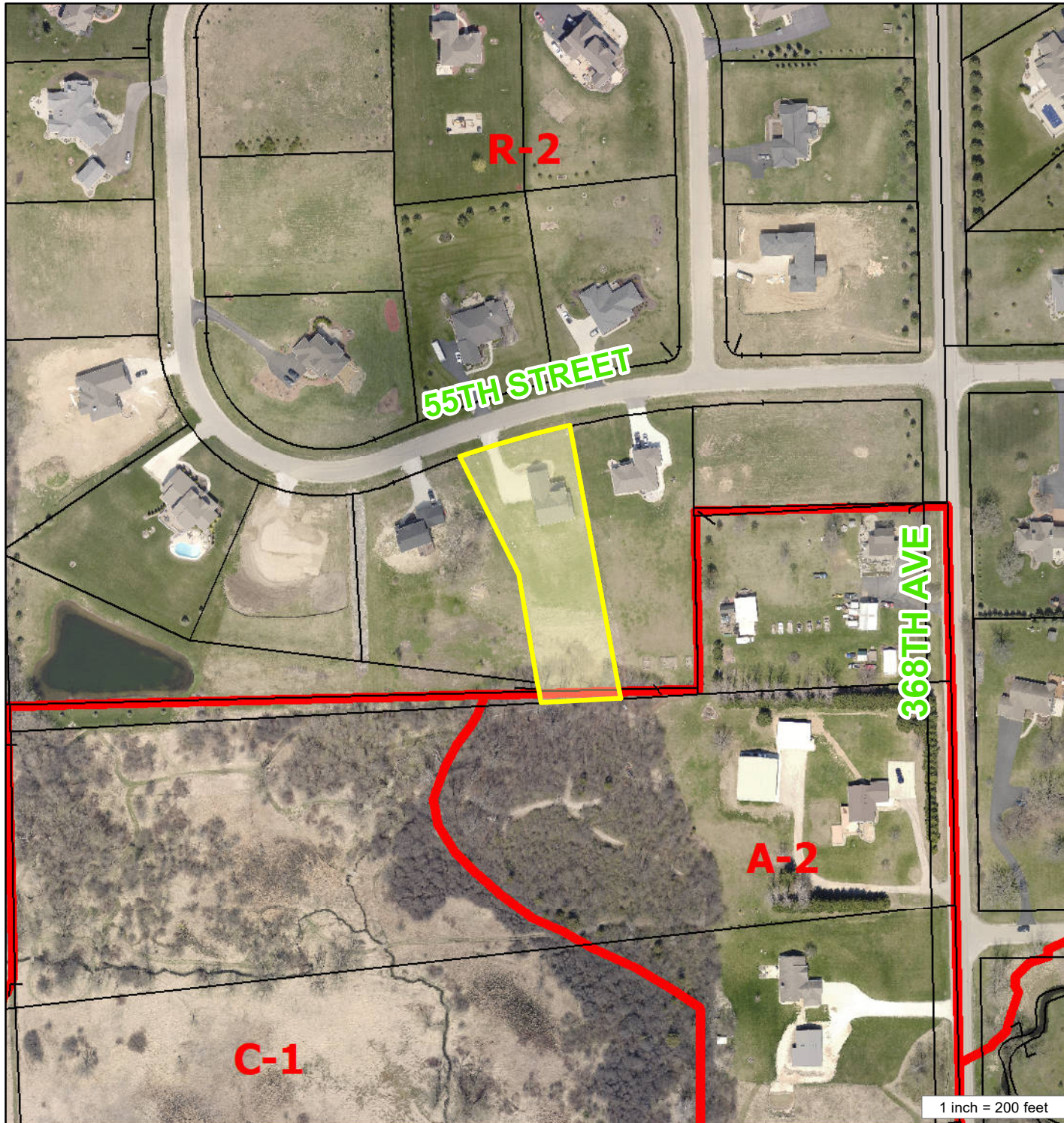


Street view placement of shed



neighbor's  
septic





## VARIANCE SITE MAP

### PETITIONER(S):

Kelli M. & Jacob C Keys (Owner)

LOCATION: SW 1/4 of Section 33,  
Town of Wheatland

TAX PARCEL(S): #95-4-219-333-0716

### REQUEST:

Requesting a variance (Section III. P. 12.18.4-7: which states that accessory buildings on properties greater than 40,000 sq. ft. shall have a 10-foot side and rear yard setback) to allow the existence of an already constructed shed having a side yard setback of 5 feet from the east property line.

