



COUNTY OF KENOSHA

December 2012

Department of Planning and Development

VARIANCE APPLICATION

Owner: George W. & Elizabeth L. Sage

Mailing Address: 8903 328th Avenue

Burlington WI 53105

Phone Number(s): 262-716-3116

RECEIVED
APR - 6 2021
Kenosha County
Planning and Development

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: 60-4-119-132-0400

Zoning District: C-2

Property Address: 8903 328th Avenue

Shoreland: No

Subdivision: -

Lot(s): -

Block: -

Current Use: 1978-built s.f. residence & 1991-built pole barn

Proposal: To locate a 20' x 20' detached accessory building in the street yard.

REQUIRED BY ORDINANCE

Section: III.P. 12.18.4-5(b) - Detached accessory buildings shall be located
in the side/rear yard only.

Section: _____ - _____

Section: _____ - _____

VARIANCE REQUESTED

Street Yard
Placement

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.

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

(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.

VARIANCE APPLICATION

The house was actually built backwards as this is back of house. Front door and driveway are on opposite side.

- (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.


As in the topography made the land available exist in front/street yard only.

- (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.

New shed would be out of view not causing obstruction approx. 900 feet from roadway.

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): _____



COUNTY OF KENOSHA

Department of Planning & Development

19600 75th Street, Suite 185-3
Bristol, WI 53104-9772
Phone: (262) 857-1895
Fax: (262) 857-1920

ZONING PERMIT APPLICATION

1. What is the Property Address (must include house number) or Tax Key Parcel Number?

2. Who owns the subject property (property owner)?

Property Owner Name:

Property Owner Mailing Address:

Property Owner Phone Number:

Property Owner Email Address:

3. Who is applying for and will be signing for this permit (applicant)?

Applicant Name:

Applicant Mailing Address:

Applicant Phone Number:

Applicant Email Address:

4. Who is constructing the proposed structures (contractor)?

Contractor Name:

Contractor Mailing Address:

Contractor Phone Number:

Contractor Email Address:

5. What is it you are proposing to construct?

You can apply for up to four separate structures on this permit application.

STRUCTURE DESCRIPTION	TYPE OF CONSTRUCTION	SIZE (FENCE) (L' @ H')	SIZE (BLDG.) (L' x W')	AREA (sq. feet)	HEIGHT (feet)	# OF STORIES

6. This section is only applicable for properties within the unincorporated townships of Kenosha County (townships of Brighton, Paris, Randall, Somers & Wheatland).

If you are proposing to construct a principal building such as a new residence or new commercial building, an addition thereto, or a detached accessory building >150 sq. ft. in area, it is required that a [professional surveyor](#) be hired to complete a foundation survey of the property after the foundation is installed for the permitted building and submit said survey document to this office in order to prove that the proposed building has been constructed in the correct location and meets setback requirements.

This section is not applicable for sheds ≤150 sq. ft. in area or other accessory structures such as decks, fences and pools.

I anticipate that a foundation survey will be submitted to this office no later than _____ (insert date).

We understand this deadline needs to be flexible due to reasons such as weather, construction delays, etc., however a due date later than 18 months from the date of permit issuance will not be accepted. If a foundation survey is not received by the anticipated

due date, the property owner will receive an automated letter notifying them of past due status. If a mutually agreed revised due date is not set, and a foundation survey is not submitted, violation and enforcement will proceed.

7. This section is only applicable for properties within the Village of Somers.

If you are proposing to construct a principal building such as a new residence or new commercial building, it is required that a [professional surveyor](#) be hired to complete a foundation survey of the property after the foundation is installed for the permitted building and submit said survey document to this office in order to prove that the proposed building has been constructed in the correct location and meets setback requirements.

I anticipate that a foundation survey will be submitted to this office no later than _____ (insert date).

If you are proposing to construct a residential or commercial building addition or detached accessory building >150 sq. ft. in area you have the option to hire a [professional surveyor](#) to complete a foundation survey of the property after the foundation is installed for the permitted building and submit said survey document to this office in order to prove that the proposed building has been constructed in the correct location and meets setback requirements.

Alternatively, the property owner may sign a waiver of liability of foundation survey waiving their obligation to have to hire a professional surveyor at this time, stating that they will build the structure according to code and that if the structure is ever found to violate the code requirements they agree to comply with said ordinance by removal of and relocation of said structure and pay all associated and consequent costs and damages. This waiver document is a legal document that is recorded against the property title in the Register of Deeds. *In the future a lending agency (such as a bank) or a prospective buyer of the property may require that said waiver be released prior to commencing with a loan or sale transaction. To do so, a plat of survey will need to be completed by a professional surveyor showing the location of the permitted structure. If said structure is found by this department to be constructed in the correct location and meets setback requirements, then a release of waiver document will be prepared at the cost of 20.00-dollars to the applicant and issued to the property owner or real estate agent so that it can be recorded with the Register of Deeds, thereby effectively releasing the original waiver of liability document.*

Choose one of the following options:

I anticipate that a foundation survey will be submitted to this office no later than _____ (insert date).

or

I anticipate that the property owner will visit Planning & Development to have their signature notarized (driver's license required) and pay for the recordation of a waiver of liability document in the form of 30.00-dollars cash or check payable to the "Register of Deeds" no later than _____ (insert date).

8. Does your project involve the placement of any fill material on the subject property such as dirt, gravel, landscape timbers, rock, shoreline protection material, etc....?

If so, what type of material and how much?

IF ISSUED, THIS ZONING PERMIT IS ISSUED SUBJECT TO:

1. ANY FEDERAL, STATE OR LOCAL RESTRICTIONS AND/OR DEED RESTRICTIONS.
2. EACH APPLICANT FOR A ZONING PERMIT IS CHARGED WITH KNOWLEDGE OF THE MUNICIPAL ZONING ORDINANCE. COPIES OF THE TEXT OF THIS OR PORTIONS THEREOF AND COPIES OF THE OFFICIAL ZONING MAPS ARE AVAILABLE FOR SALE, COPYING OR INSPECTION UPON REQUEST. ANY STATEMENT MADE, SITE PLAN SUBMITTED, ASSURANCE GIVEN OR PERMIT ERRONEOUSLY ISSUED CONTRARY TO THIS ORDINANCE IS NULL AND VOID.
3. THIS PERMIT SHALL EXPIRE EIGHTEEN (18) MONTHS FROM DATE OF ISSUANCE.
4. ANY ADDITIONAL CONDITIONS WRITTEN BY THE ZONING ADMINISTRATOR ISSUING THE ZONING PERMIT.

NOTICE: YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE <http://dnr.wi.gov/topic/wetlands/locating.html> OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER (262) 884-2300.

THIS MAP IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION OF RECORDS, DATA AND INFORMATION LOCATED IN VARIOUS STATE, COUNTY AND MUNICIPAL OFFICES AND OTHER SOURCES AFFECTING THE AREA SHOWN AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. KENOSHA COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED. IF DISCREPANCIES ARE FOUND, PLEASE CONTACT KENOSHA COUNTY.

Source: Kenosha County Department of Planning and Development

Kenosha County



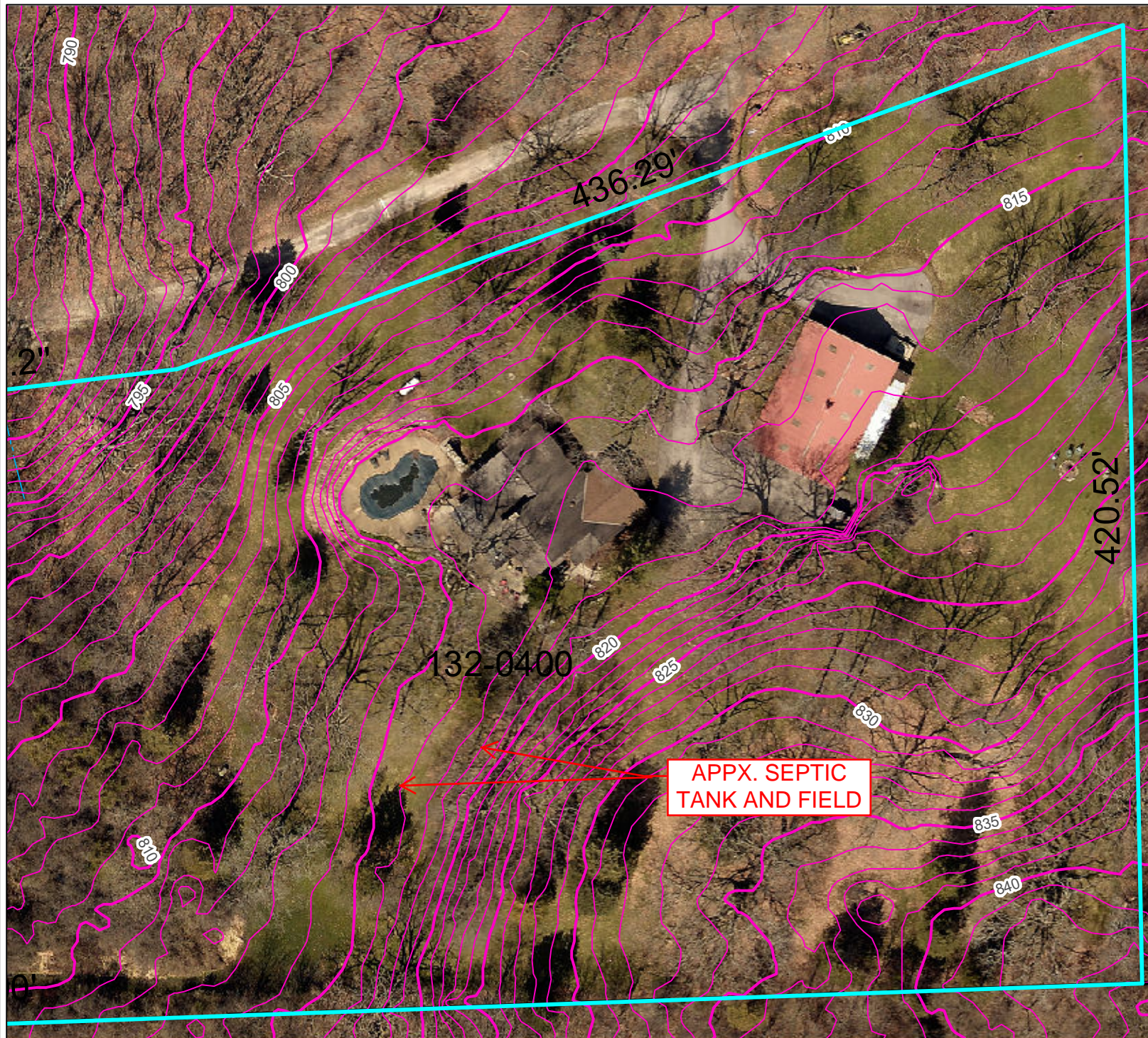
SUBJECT
PROPERTY
(ZOOM)

W/ 1-FOOT
CONTOURS



1 inch = 60 feet

THIS MAP IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION OF RECORDS, DATA AND INFORMATION LOCATED IN VARIOUS STATE, COUNTY AND MUNICIPAL OFFICES AND OTHER SOURCES AFFECTING THE AREA SHOWN AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. KENOSHA COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED. IF DISCREPANCIES ARE FOUND, PLEASE CONTACT KENOSHA COUNTY.



PART OF THE NORTHWEST 1/4 OF SECTION 13, TOWNSHIP 1 NORTH, RANGE 19 EAST OF THE FOURTH PRINCIPAL MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE SOUTHWEST CORNER OF SAID 1/4 SECTION; THENCE N 89°11' E ALONG AND UPON THE SOUTH LINE OF SAID 1/4 SECTION, 1360.00 FEET; THENCE NORTH PARALLEL TO THE WEST LINE OF SAID 1/4 SECTION, 420.52 FEET; THENCE S 71°20'20" W, 436.29 FEET; THENCE S 84°47'32" W, 147.20 FEET; THENCE SOUTH PARALLEL TO THE WEST LINE OF SAID 1/4 SECTION, 234.54 FEET; THENCE S 89°11' W, PARALLEL TO THE SOUTH LINE OF SAID 1/4 SECTION, 800.00 FEET AND TO THE WEST LINE OF SAID 1/4 SECTION; THENCE SOUTH ALONG AND UPON THE WEST LINE OF SAID 1/4 SECTION 40.00 FEET AND TO THE POINT OF BEGINNING, SUBJECT TO HIGHWAY "J", 328TH. AVE. OVER AND ACROSS THE MOST WESTERLY 33 FEET, SAID LAND BEING IN THE TOWN OF RANDALL, COUNTY OF KENOSHA, STATE OF WISCONSIN.

* REFER TO CURRENT TITLE REPORT FOR EASEMENTS, RESTRICTIONS OR COVENANTS OF RECORD THAT MAY AFFECT THIS LAND *

PROJECT

PLAT OF SURVEY

PROJECT NO.

060265
060265S1.DWG

DATE

SEPTEMBER 29, 2006

REVISIONS

SURVEYOR

GARY B. FOAT
DEGEN - FOAT SURVEYING

PREPARED FOR

DOUG & KATHY KOPELKE
8903 328th AVENUE
BURLINGTON, WI 53105

NORTHWEST CORNER
SECTION 13-1-19

S 01°14'45" E - 2610.49

328th AVENUE

S 01°14'45" E - 40.00
(sum)

C.T.H. "J"

WEST 1/4 CORNER
SECTION 13-1-19

CENTERLINE OF POSSIBLE FUTURE
66' WIDE ROAD (PER PREVIOUS SURVEYS)

(S 84°47'32" W - 147.20)
S 83°30'51" W - 147.09

S 01°09'47" E - 235.54
(sum)

(S 89°11' W - 800.00)
S 87°57'48" W - 800.61
767.61

1316.19
N 87°57'48" E - 1359.86
(N 89°11' E - 1360.00)

FOUND IRON PIPE
0.5' N. OF CORNER

FOUND IRON PIPE
0.5' N. OF CORNER

FENCE 4' S. OF LINE

PROpane TANK

POOL

CCNG

EXISTING DWELLING

SEPTIC TANK

ASPHALT DRIVE

BARN

WELL

STREET YARD

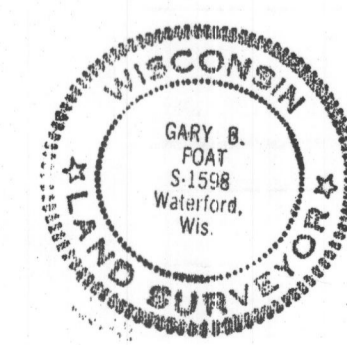
SIDE/REAR YARD

SCALE: 1" = 50'
BEARING BASE: WISCONSIN STATE PLANE
COORDINATE SYSTEM, SOUTH ZONE

LEGEND

- - FOUND IRON PIPE
- - FENCE
- () - RECORDED AS
- ⊙ - KENOSHA COUNTY MONUMENT

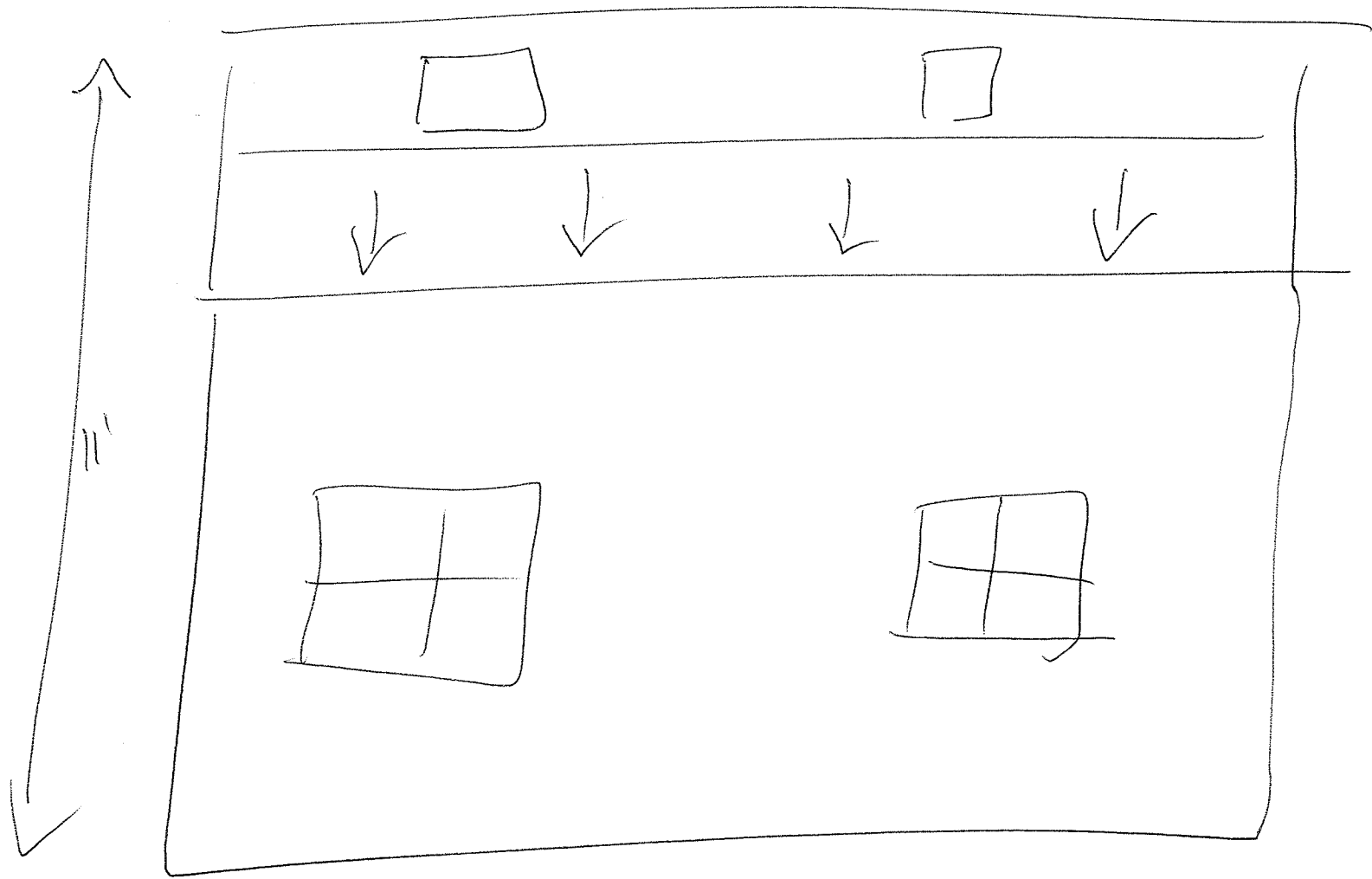
DEGEN-FOAT SURVEYING, INC.
100 SOUTH SECOND STREET
WATERFORD, WISCONSIN
(262)534-5404 (FAX)534-2022



I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWING THE SIZE AND LOCATION OF THE PROPERTY, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS, ROADWAY AND VISIBLE ENCROACHMENTS IF ANY.
THIS SURVEY IS MADE FOR THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, OR GUARANTEE THE TITLE THEREOF WITHIN (1) YEAR FROM THE DATE HEREOF.
DATED AT WATERFORD, WISCONSIN, THIS 29th DAY OF SEPTEMBER, 2006
GARY B. FOAT

PROPOSED 20' X 20' SHED

60-4-119-132-0400



- (h) The Department may request such additional information from the complainant and the owner as it deems necessary to complete its review.
- (i) The Department may retain such consultants or experts as it deems necessary to complete its review.
- (j) The Department shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.
- (k) The Department's decision and enforcement action is subject to review under Wis. Stat. § 66.0401(5).

P. ACCESSORY BUILDING REGULATIONS

12.18.4-1 PERMIT REQUIRED

No accessory building shall hereinafter be located, directed, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit from the Division of Planning Operations and without being in conformity with the provisions of this Ordinance, and State Statutes and the Wisconsin Administrative Code. The accessory building shall also meet all the structural requirements of local and State codes.

12.18.4-2 DISTRICTS

Accessory buildings may be located in all districts except the C-1 Lowland Resource Conservancy District and FPO Floodplain Overlay District.

12.18.4-3 APPLICATION

All drawings and plans for the construction, installation, enlargement or alteration of any such accessory building shall first be presented to the Division of Planning Operations for examination and approval as to proper size, location and construction.

All such plans and drawings shall be drawn to scale and shall indicate thereon all distances and dimensions so as to accurately and explicitly show all lot lines, and all information pertaining to the accessory building. Such plans shall also include vertical elevations of the accessory building.

12.18.4-4 CLASSIFICATION

Agricultural buildings, on lots of at least 10 acres, such as barns, silos, bins, sheds, and farm machinery sheds in the A-1, A-2, A-3 and A-4 agricultural districts shall not be considered accessory buildings. Such buildings are principal agricultural buildings and shall comply with the yard and height requirement of the agricultural districts.

Buildings on non-conforming lots in the A-1, A-2, A-3, or A-4 districts less than 10 acres shall be considered accessory buildings and shall comply with the provisions of this section.

12.18.4-5 LOCATION

Accessory buildings shall be detached from the principal structure, provided that the accessory building:

- (a) Is on the same lot and then permitted only after their principal structure is present or under construction.

- (b) Shall be located in the side or rear yard only.

12.18.4-6 SIZE

Accessory building size is based upon lot size according to table 12.18.4-12.

12.18.4-7 SETBACKS

Accessory buildings shall have the following setbacks. (see table 12.18.4-12)

- (a) A building separation of at least 10 feet between all buildings and structures.
- (b) A minimum 5-foot side and rear yard setback on lots equal to or less than 39,999 square feet, unless zoned R-9, R-10 or R-11 in which case the setback shall be 10 feet.
- (c) A minimum 10-foot side and rear yard setback on lots equal to or greater than 40,000 square feet.
- (d) Detached accessory buildings in all other districts shall meet the minimum setback requirements as outlined in each district.

12.18.4-8 HEIGHT

Accessory buildings shall have the following height. (see table 12.18.4.12)

- (a) A maximum height of 15 feet for buildings (shed, gazebos, pool house) equal to or less than 150 square feet.
- (b) A maximum height of 17 feet for buildings greater than 150 square feet and equal to or less than 720 square feet
- (c) A maximum height of 20 feet for buildings greater than 720 square feet.
- (d) A maximum height of 24 feet for buildings greater than 3,000 square feet.

12.18.4-9 NUMBER OF BUILDINGS

The number of accessory buildings permitted per lot are as follows: (see table 12.18.4-12)

- (a) One of each: shed, gazebo, pool house equal to or less than 150 square feet.
- (b) One accessory building, greater than 150 square feet, on lots equal to or less than 79,999 square feet.
- (c) Two accessory buildings, greater than 150 square feet, on lots equal to or greater than 80,000 square feet.

- (c) If the total number of detached accessory buildings existing on a parcel exceeds the total number permitted in the district, no additional buildings or additions to existing buildings shall be permitted unless buildings in excess of the district standard are removed.

12.18.4-10 OPEN SIDED/SCREENED STRUCTURES (BUILDINGS) SUCH AS GAZEBOS AND SCREEN HOUSES

Open sided and/or screened structures (buildings) such as gazebos, and screen houses are permitted in the shoreyard setback area provided that the following is satisfied in accordance with § 59.692(1v), Stats.

- (a) The part of the structure (building) that is nearest to the water is located at least 35 feet landward from the ordinary high water mark.
- (b) The floor area of all structures (buildings) in the shoreland setback area shall not exceed 200 square feet.
- (c) The structure (building) has no sides or has open or screened sides.
- (d) The structure (building) shall not exceed 10 feet in height.
- (e) Submittal of a plan, approved by the Division of Planning Operations, that will be implemented by the owner of the property to preserve or establish a vegetative shoreland buffer area that covers at least 70% of the width at least 37.5 feet landward from the ordinary high water mark.
- (f) Shoreland buffer area shall be established and maintained with applicable shoreland cutting provisions of section 12.18-2.

12.18.4-11 BOATHOUSES

Boathouses, accessory to permitted uses, may be located within a shore yard and entirely within the access and viewing corridor, but shall not be closer to a lake, stream, pond, or wetland than the ordinary high water mark. A boathouse is a non-habitable structure and shall be designed and used exclusively for marine equipment and shall meet the following requirements:

- 1 used by the owner or occupant of the parcel;
- 2 one (1) boathouse per shoreland lot;
- 3 not to be closer than three (3) feet to any side lot line; and the boathouse shall be constructed in such manner as to orient the main opening of the boathouse toward the lake;
- 4 not exceed four hundred and fifty (450) square feet measured outside wall to outside wall;
- 5 not to exceed one story, with a minimum wall height of 10 feet;
- 6 maximum height of twelve (12) feet above the existing shoreline grade except when bluff and/or steep slope conditions exist, (in such cases, it shall not exceed the height of the top grade elevation of said shoreland lot);
- 7 maximum width parallel to the shore of fifteen (15) feet;
- 8 not to contain fireplaces, patio doors, plumbing, heating, air conditioning, cooking facilities or other features inconsistent with the use of the structure exclusively as a boathouse;
- 9 no attached or detached decks or patios;
- 10 maximum of 10 square feet of window surface may be allowed on each side;

- 11 no more than one service door not to exceed 36 inches in width. The service door shall not be on the water body side of the structure;
- 12 no more than one garage style access door not exceeding 10 feet in width and no less than 8 feet in width. The garage style door shall be on the water body side of the structure.

The roof of a boathouse may be used as a deck provided that:

- 1 The boathouse has a flat roof.
- 2 The roof has no side walls or screens.
- 3 The roof may have a railing that meets the Department of Safety and Professional Services standards.

12.18.4-12 SUMMARY OF REGULATIONS FOR DETACHED ACCESSORY BUILDINGS

LOT SIZE	MAXIMUM NUMBER OF BUILDINGS	MAXIMUM SIZE (square feet)	MAXIMUM HEIGHT (feet)	YARD LOCATION	SIDE/REAR SETBACK
<15,000 SF	1	150	12	SIDE OR REAR	5 FEET
	1	720	17	SIDE OR REAR	5 FEET
15,000- 19,999 SF	1	150	12	"	"
	1	1000	20	"	"
20,000- 39,999 SF	1	150	12	"	"
	1	1,500	20	"	"
40,000- 79,999 SF	1	150	12	"	10 FEET
	1	2,000	20	"	10 FEET
80,000- 119,999 SF	1	150	12	"	
	2	2,500	20	"	
120,000- 159,999 SF	1	150	12	"	"
	2	3,000	24	"	"
160,000- 4.9 AC	1	150	12	"	"
	2	3,500	24	"	"
5-5.9 AC	1	150	12	"	"
	2	4,000	24	"	"
6-6.9 AC	1	150	12	"	"
	2	4,500	24	"	"
7-7.9 AC	1	150	12	"	"
	2	5,000	24	"	"
8-8.9 AC	1	150	12	"	"
	2	5,500	24	"	"
9-9.9 AC	1	150	12	"	"
	2	6,000	24	"	"
>10 AC	No Limit	No Limit	24	SIDE, REAR, STREET	25 FEET/ 50 FEET
R-9	No Limit	No Limit	20	SIDE OR REAR	"
R-10	No Limit	No Limit	20	SIDE OR REAR	"
R-11	No Limit	No Limit	20	SIDE OR REAR	"
R-12	1	150	12	SIDE OR REAR	5 FEET
	1	720	17	SIDE OR REAR	5 FEET