



ZONING BOARD OF APPEALS AGENDA
Thursday, March 8, 2018, 5:30 p.m.
Town Hall - 1900 W. Grand Chute Blvd

1. Call to Order and Roll Call.
2. Approval of Minutes – November 9, 2017 meeting.
3. **Public Hearing #1** – Variance V-01-18 requested by Michael E. Forrest and Rodney T. Bergman, 2837 E. Wisconsin Avenue, for a variance from Ch. 535-43 of the Town of Grand Chute Municipal Code to allow construction of a building addition within the required 55 foot setback from a State highway. **Action:** Hear testimony/close public hearing.
4. **Variance V-01-18** – Request by Michael E. Forrest and Rodney T. Bergman, 2837 E. Wisconsin Avenue, for a variance from Ch. 535-43 of the Town of Grand Chute Municipal Code to allow construction of a building addition within the required 55 foot setback from a State highway. **Action:** Approve/deny Variance V-01-18.
5. Adjournment.

Public Notice: Agendas are posted in the following locations: Town Hall bulletin boards & Town website www.grandchute.net
2015 Wisconsin Act 79 allows the publication of certain legal notices on an Internet site maintained by a municipality. This law allows these types of legal notices to be posted in one physical location in the jurisdiction (instead of three) if also placed on an Internet site maintained by the local government.

Special Accommodations: Requests from persons with disabilities who need assistance to participate in this meeting should be made to the Clerk's Office at (920-832-5644) with at least 24-hour notice.

Notice of Possible Quorum: A quorum of the Town Board, Sanitary Districts, Board of Review, Licensing Committee, Parks Commission, Joint Review Board, Zoning Board of Appeals and/or Police and Fire Commission may be present at this meeting for the purpose of gathering information and possible discussion on items listed on this agenda. However, unless otherwise noted in this agenda, no official action by the Town Board, Sanitary Districts, Board of Review, Licensing Committee, Parks Commission, Joint Review Board, Zoning Board of Appeals and/or Police and Fire Commission will be taken at this meeting.

TOWN OF GRAND CHUTE
ZONING BOARD OF APPEALS MINUTES
November 11, 2016

Members Present: Karen Petersen, Aaron Janssen, Cheryl Ulrich, Kiersten Gustafson, Dan Schultz. All members in attendance.

Also Present: Robert Buckingham, Community Development Director (Audience attendance: 1)

1. **CALL MEETING TO ORDER AND ROLL CALL**

Chair Karen Petersen opened the meeting at 5:30 p.m. and roll call was taken.

2. **APPROVAL OF MINUTES** – April 14, 2016 meeting.

Motion (Schultz/Ulrich) to approve the minutes. Motion carried, all voting aye.

3. **PUBLIC HEARING #1: REQUEST BY STB INVESTMENTS LLC, 1000 S. WESTLAND DRIVE, FOR A VARIANCE (V-05-16) FROM CH. 535-53 (C)(2) OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW A FENCE TO BE CONSTRUCTED AT A HEIGHT THAT EXCEEDS 42 INCHES.**

Chair Petersen opened the hearing at 5:32 p.m.

Dave Allen, STB Investments LLC, provided background on the project. He agrees with the recommendation for denial of the variance, with the intent of working with the Town to designate the Timmers Lane frontage for no access, thus allowing the fence to remain as built.

Motion (Ulrich/Schultz) to close Public Hearing #1 at 5:34 p.m. Motion carried, all voting aye.

4. **VARIANCE (V-05-16) - REQUEST BY STB INVESTMENTS LLC, 1000 S. WESTLAND DRIVE, FOR A VARIANCE (V-05-16) FROM CH. 535-53 (C)(2) OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW A FENCE TO BE CONSTRUCTED AT A HEIGHT THAT EXCEEDS 42 INCHES.**

Director Buckingham explained the reasons for a staff recommendation to deny the variance, as provided in the report to the Board. He said upon denial of the variance, the applicant would need to choose one of the following actions: 1) Reduce the height of the fence along Timmers Lane to 42 inches; 2) Relocate the fence along Timmers Lane to a location at least 25 feet from the property line, and re-install it at a height of no greater than 6 feet; or, 3) Abandon the driveway/access to Timmers Lane, request that the Town officially designate this frontage as 'No Access', and retain the fence as currently installed at 6 feet in height and 31 inches from the property line.

Motion (Janssen/Ulrich) to deny Variance V-05-16 requested by STB Investments LLC, 1000 S. Westland Drive, to allow a front yard fence constructed at a height that exceeds 42 inches. Motion carried, all voting aye.

5. **ADJOURNMENT**

Motion (Ulrich/Janssen) to adjourn the meeting at 5:45 p.m. Motion carried, all voting aye.

Respectively submitted,

Tracy Olejniczak/BB
Community Development Secretary

Town of Grand Chute

Variance Request

Michael E. Forrest & Rodney T. Bergman

TO: Zoning Board of Appeals

FROM: Michael Patza, Town Planner

DATE: March 1, 2018

ADDRESS: 2837 E. Wisconsin Avenue

App. #: V-01-18

REQUEST

The property owners propose to construct an addition to their home that would connect the existing home and garage on this residential property. Given the location of the existing home and garage, and other environmental constraints on this site, it is necessary to locate the building addition approximately 30' from the property line on E. Wisconsin Avenue. The Zoning Code requires a 55' front yard setback from a State highway. A variance is requested to reduce the required highway setback from 55' to 30'.

ANALYSIS

The Wisconsin Department of Transportation (WisDOT) verified there are no current plans to widen this portion of E. Wisconsin Avenue (documentation attached). Consequently, WisDOT has no enforceable setback line on the property in question. The proposed building addition would connect the existing home and garage on the property. These existing structures are approximately 34' and 37' from the E. Wisconsin Avenue property line. Environmental constraints on the site include a 75' setback from the ordinary high water mark of the Fox River and a severe drop in elevation of approximately 46' from north to south. Given the site conditions and location of existing structures, maintaining a 55' setback from E. Wisconsin Avenue for the building addition is not possible.

FINDINGS OF FACT IN GRANTING OF A VARIANCE

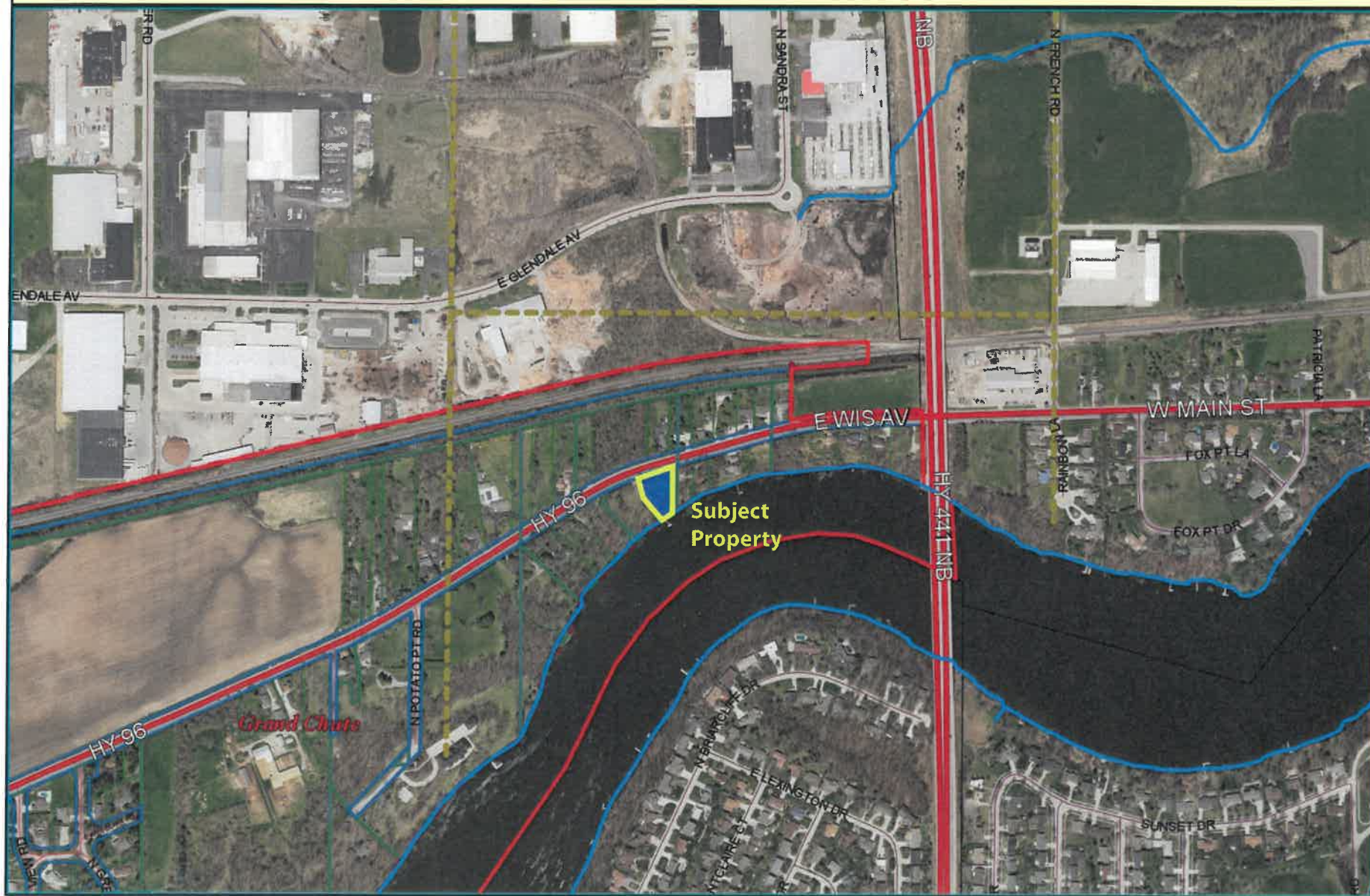
- 1. The variance is not contrary to the public interest and that such variance will be in general harmony with the purposes and intent of the Zoning Ordinance.** *Found.* Acknowledgement that the highway setback requirement is not enforceable at this property.
- 2. The variance will not permit the establishment of a use, which is not permitted or permissible in the district.** *Found.* Single family residential structures are a permitted use in this zoning district.
- 3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.** *Found.* The special setback provision designed to protect the interests of the Wisconsin Department of Transportation is nullified since the State does not have an enforceable setback on the subject property.
- 4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.** *Found.* The Zoning Code's highway setback requirement is applicable only to properties along Federal, State, and County highways. To deny this variance request with knowledge that the State is not enforcing a setback on the subject property would deny the applicant of rights to use of the property commonly enjoyed by other properties.
- 5. The hardship is not shared generally by other land or buildings in the area.** *Found.* See #3 above.
- 6. The hardship results from the strict interpretation of this ordinance and is not the result of self-created or self-imposed circumstances.** *Found.* The highway setback requirement is applied uniformly to all properties that front on Federal, State and County highways. The only form of relief is to seek a variance in those instances when the governmental unit with jurisdiction confirms no enforceable setback exists.

RECOMMENDATION

Staff finds in favor of granting this variance and recommends Board approval of the request by Michael E. Forrest & Rodney T. Bergman, 2837 E. Wisconsin Avenue, to allow construction of a building addition within the required 55' setback from a State highway. In granting this variance, the Town of Grand Chute Zoning Board of Appeals has relied upon confirmation of the fact that the Wisconsin Department of Transportation does not have an enforceable setback on the property at 2837 E. Wisconsin Avenue.

NOTE: As a courtesy reminder, the Board is reminded that approval of a variance requires a super-majority of 4 members voting in the affirmative. If fewer than 4 members vote affirmatively for approval of a variance, said variance is denied.

2837 E. Wisconsin Ave - Location Map



This map was compiled using data believed to be accurate; however, a degree of error is inherent in all maps. This map was distributed "AS-IS" without warranties of any kind, either expressed or implied, including but not limited to warranties of suitability to a particular purpose or use. No attempt has been made in either the design or production of the maps to define the limits or jurisdiction of any federal, state, or local government. Detailed on-the-ground surveys



V-01-2018 -- 2837 E. Wisconsin Avenue



To whom it may concern:

We, the homeowners residing at 2837 E Wisconsin Ave, are requesting a variance to improve our property. We want to add an addition connecting our existing house to our existing garage and a covered porch off the west side behind the existing structure. Prior to planning our addition, we contacted the Town of Grand Chute and inquired about setbacks and guidelines so we could plan accordingly. After giving our address and discussing the placement of our existing home, we used the information we gathered on our call and employed a designer to help us draft plans that would fit our needs. We were under the impression that the setback from the street was to be at least 25 feet. We began planning in March of 2017 and had completed our design with the aid of our designer in October 2017. On the initial call, we were also told that we would also need the approval from Outagamie County due to our proximity to the Fox River. We spoke to Steven Swanson, Outagamie County Deputy Zoning Administrator, who later visited our location and confirmed that our plans appeared, to the best of his knowledge, to be within the setbacks. To avoid paying multiple application fees we decided to share our design in order to get an acknowledgement that our plans were within the Town of Grand Chute's guidelines and likely to be approved when formally applying for a building permit. We came into the Town Hall and spoke to Michael Patza, who then recognized that Wisconsin Ave is a state highway and the setback is actually 55ft not 25ft as we were originally informed. We went back to our designer to see if there was any way to change our design to still be a congruent, cohesive design maximizing potential resale and were told it was virtually impossible due to the fact that both our house and garage are both closer than the 55ft setback. In their opinion, the addition would have the appearance of a complete separate structure with a corridor attaching the two structures rather than a cohesive addition. In addition the structure would require significant engineering due to the natural downward slope of the lot. In their estimate, it could require up to 20ft concrete foundation walls. Also, moving the addition that far back may then begin to encroach on the waterfront setback. Our property is unique because our existing house and garage are already in front of the 55ft setback, we are limited by setbacks on both the front and the rear of our property due to the state highway in front and the Fox River behind and the nature of our lot is steeply graded toward the river. It is for these reasons that we are requesting a hardship variance. We ask that we be granted a variance to complete our project to improve our property by completing our addition and be allowed to use the 25ft setback guideline allowed on other streets.

Thank you for your consideration,

Rod Bergman and Mike Forrest

Michael D. Patza

From: Nielsen, David - DOT <david.nielsen@dot.wi.gov>
Sent: Friday, February 16, 2018 1:52 PM
To: Michael D. Patza
Cc: Nielsen, David - DOT
Subject: FW: R/W Information
Attachments: 2837 E Wisconsin Ave - Site Plan.pdf; 2837 E Wisconsin Ave - Aerial View.pdf; 2837 E Wisconsin Ave - Locaiton Map.pdf

There are no current plans to widen STH 96 in this area, there no WisDOT setbacks associated with this property and the addition is approximately the same distance form STH 96 as the existing structure, therefore WisDOT has no objections to this proposal.

David B Nielsen, P.E.

Access Management Engineer
Northeast Region

Wisconsin Department of Transportation
944 Vanderperren Way
Green Bay WI 54304

Phone: (920) 492-0148
wisconsin.gov

If this is related to a records request, please email: dotdsdnerecords@dot.wi.gov

From: Michael D. Patza [mailto:Michael.Patza@grandchute.net]
Sent: Friday, February 16, 2018 11:24 AM
To: Nielsen, David - DOT <david.nielsen@dot.wi.gov>
Subject: RE: R/W Information

Good Morning David,

Attached is the information regarding the proposed building addition at 2837 E. Wisconsin Ave. in Grand Chute. As shown on the plans the addition will be 30' from the ROW on E. Wisconsin Ave/STH 96. We are looking for verification that the Wisconsin DOT does not have any objections to a variance to reduce the setback for the building addition from 55' to 30'.

Best Regards,