

NOTICE

The City of Stoughton will hold a meeting of the Board of Appeals on Monday, September 14, 2009 at 5:00 p.m. or as soon as this matter may be heard in the Council Chambers, Public Safety Building, 321 S. Fourth St. Stoughton, Wisconsin.

AGENDA:

1. Call meeting to order.
2. Elect Vice-Chair.
3. Consider approval of the Board of Appeals Minutes of March 2, 2009.
4. Brooke Schein, owner of the following property: 219 S. Academy Street, Stoughton, Wisconsin, Parcel #281/0511-092-2944-2, JOHN NELSON ADD S 33 FT OF LOT 4 BLOCK 2, has appealed the requirements of the City of Stoughton zoning ordinance section 78-84(3) b, which requires a minimum side yard setback of 10 feet for principal buildings within the R-1 Single Family Residential District. The applicant requests a variance to allow a home addition to be constructed 1.9 feet from the north side lot line at 219 S. Academy Street, Stoughton, WI.
5. Adjournment.

AW:mps
8/17/09

SENT TO:

Al Wollenzien, Chair	Robert Barnett, Alternate #1
Russ Horton	Norm Venden, Alternate #2
David Erdman, Secretary	
Robert Busch	
Kristin Ott	

cc: Mayor Jim Griffin (Packet)	Department Heads (via-email)
Deputy Clerk Pili Hougan (via-email)	Council Members (via-email)
Building Inspector Steve Kittelson (via-email)	Receptionists (via-email)
Zoning Administrator Michael Stacey (3 packets)	City Attorney Matt Dregne (Packet)
Stoughton Newspapers/WSJ (via-fax)	
Brooke Schein, 219 S. Academy Street, Stoughton (Packet)	

IF YOU HAVE ANY QUESTIONS REGARDING THIS NOTICE, PLEASE CALL MICHAEL STACEY AT 608-646-0421

“IF YOU ARE DISABLED AND IN NEED OF ASSISTANCE, PLEASE CALL 873-6677 PRIOR TO THIS MEETING.”

NOTE: AN EXPANDED MEETING MAY CONSTITUTE A QUORUM OF THE COUNCIL.

S:/common/mps/boardofappeals/BSchein09/BScheinnotice09.doc

Board of Appeals Meeting Minutes

Monday, March 2, 2009 5:00 p.m.

**Public Safety Building, Council Chambers, upper level, 321 S. Fourth St.,
Stoughton WI.**

Members Present: Al Wollenzien, Chair; William Torda, Vice-Chair; David Erdman, Secretary; Russ Horton; and Robert Busch.

Members Absent and Excused: Kristin Ott and Robert Barnett.

Members Absent:

Staff: Michael Stacey, Zoning Administrator.

Guests: Daniel Spransy; Mayor Jim Griffin and Greg Menting.

- 1. Call meeting to order.** The meeting was called to order at 5:00 pm by Chair Al Wollenzien.
- 2. Consider approval of the minutes of November 17, 2008 & December 1, 2008.** Motion by **Erdman** to approve the minutes as presented. 2nd by **Torda**. Motion carried 4-0. Busch arrived at 5:02
- 3. Daniel Spransy, owner of the following property: 100 S. Division Street, Stoughton, Wisconsin, Parcel # 281/0511-082-1461-0, Original Plat block 20 N 66 ft lot 1 & N 66 ft lot 2, has appealed the requirements of the City of Stoughton zoning ordinance section 78-144(2) b, which requires a minimum side yard setback of 20 feet for principal buildings in the R-4 High Density Multi-Family District. The applicant requests a variance to allow a home addition to be constructed 12 feet from the north side lot line at 100 S. Division Street, Stoughton.**

Wollenzien opened the variance hearing. Daniel Spransy explained the variance request as follows: The condition of the existing structure at 100 S. Division Street is very poor and without a solid foundation. The proposed variance will allow removal of a portion of the structure so a new foundation can be constructed and allow a master bedroom expansion. Since the property is zoned R-4 the required side yard setback is 20 feet while if it was zoned single family the setback would be 10 feet. The proposed expansion will have a side yard setback of 12 feet. Spransy stated he planned to move his family in when the project is finished.

Stacey gave a staff review related to the 3 tests required to approve a variance request as follows:

- A. The hardship is not necessarily due to the physical limitations of the property however, most typical R-4 High Density Multi-Family properties are much larger which allow for more room for the required 20-foot side yard setback. The property should have a single family zoning classification.**

- B. The variance should not harm the public interest. City planning staff had worked with previous property owners to clean-up this particular site; based on work that Spransy has completed on other city properties, the proposed addition and upgrades to this property should enhance the neighborhood. Beatrice Rice, 201 North Division Street, sent in a letter in favor of the request. Staff has heard from no one else.

- C. Unnecessary hardship is present because the owner is held to the more restrictive R-4 side yard setback requirement as compared to the single family requirement of 10 feet. If the property was zoned correctly as single family, the property owner could construct the addition without a variance and without Planning Commission approval. The zoning of the property will most likely be amended to single family when a comprehensive zoning map amendment is done at the end of this year.

Motion by **Erdman** to approve the variance as requested contingent on Planning Commission site plan approval. 2nd by **Torda**.

Erdman stated he supports approval of the variance for the same reasons staff has outlined.

Motion passed. 5 – 0 (Erdman, Torda, Busch, Horton, & Wollenzien)

3. Adjournment.

Motion by **Erdman** to adjourn. 2nd by **Horton**. Motion carried 5 – 0.

Respectfully Submitted,

David Erdman, Secretary

OFFICIAL NOTICE

Please take notice that Brooke Schein, owner of the following property: 219 S. Academy Street, Stoughton, Wisconsin, Parcel # 281/0511-092-2944-2, JOHN NELSON ADD S 33 FT OF LOT 4 BLOCK 2, has appealed the requirements of the City of Stoughton zoning ordinance section 78-84(3) b, which requires a minimum side yard setback of 10 feet for principal buildings within the R-1 Single Family Residential District. The applicant requests a variance to allow a home addition to be constructed 1.9 feet from the north side lot line at 219 S. Academy Street, Stoughton, WI.

Notice is hereby given that the Board of Appeals will conduct a hearing on this matter in the Council Chambers, Public Safety Building, 321 S. 4th St., City of Stoughton, on September 14, 2009 at 5:00 p.m.

Board of Appeals
Al Wollenzien, Chair
AW:mps

Published: August 27, 2009 HUB

DEPARTMENT OF PLANNING & DEVELOPMENT REVIEW

Name and Address of Applicant: Brooke Schein
219 S. Academy Street
Stoughton, WI. 53589

THE FOLLOWING IS THE SPECIFIC ZONING ORDINANCE SECTION(S) THE APPLICANT IS REQUESTING RELIEF FROM:

Zoning Code Section: 78-84(3)b, Lot, yard and building requirements. Principal building: Side yards (setback)...Minimum 10 feet.

DATE OF APPLICATION: August 7, 2009
DATE PUBLISHED: August 27, 2009
DATE NOTICES MAILED: August 24, 2009
DATE OF HEARING: September 14, 2009

FACTUAL AND LEGAL BASIS FOR THE DEPARTMENT OF PLANNING & DEVELOPMENT RECOMMENDATIONS, BASED UPON THE STANDARDS FOR VARIANCES:

1. The particular physical surroundings, shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

The property at 219 S. Academy Street is half the width of a standard single family lot (33 feet vs 66 feet) which creates a hardship related to the amount of side yard available.

2. The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zone classification.

We believe the conditions upon which the application is based are generally not generally applicable to properties within the R-1 Single Family Residential district. There are few similar properties within the City of Stoughton.

3. The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner.

We believe the purpose of the variance is not based exclusively for the economic gain of the owner/applicant. The owner would like to add a deck to the back of the home to match the width of the existing home.

4. The alleged difficulty or hardship is caused by this ordinance and has not been created by any persons presently having an interest in the property.

We believe the difficulty or hardship has been created by changes to the zoning ordinance over time. The home was originally allowed to be built 1.9 feet from the side lot line on a lot that is approximately 4,347 square feet in area. Currently the zoning code requires a 10-foot side yard setback and a minimum lot size of 8,712 square feet.

5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvement in the neighborhood in which the property is located.

We believe the granting of this variance should not harm the public interest.

6. The proposed variance will not impair the use and enjoyment of adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

We believe the proposed variance should not impair the use and enjoyment of adjacent property. The proposed addition will be mostly hidden by an existing fencing.

Meet 1st (M) of month
June 1st OR meeting in May

\$365 fee for
VARIANCE

City of Stoughton- Variance Application

City of Stoughton Zoning Board of Appeals

Part 1: General information and alternatives analysis

To be completed jointly by the applicant and zoning staff.

Petition # 09142009 Date filed 8/7/09 \$ 365⁰⁰ fee paid (payable to City of Stoughton)

Type of variance requested:

Use variance – allows a landowner to use a property for an otherwise prohibited use.

Area variance – provides an increment of relief (normally small) from a physical dimensional restriction such as building height or setback.

	Owner/agent	Contractor
Name	BROOKESSTEIN	Thunderstone Home Improvements
Address	219 S. ACADEMY ST.	Steve Arnott
Phone	608 541 0060	

Property Address related to request:
219 S. ACADEMY ST. Stoughton

Legal description & parcel number: Staff will provide Access Dane record to be attached.

Lot area & dimensions: 4,356 sq. ft., 33 x 132 ft.

Zoning district R1

Current use & improvements: Single family home

Description and date of any prior petition for appeal, variance or conditional use: N/A

Description and location of all nonconforming structures & uses on the property:

FENCE - TO BE MOVED
MPS

Ordinance standard from which variance is being sought (section number and text):

SECTION 78-84 (3) b. SIDE YARD, MINIMUM 10 FEET
MPS

Describe the variance requested:

(MAYBE EVENTUALLY)
I AM ASKING TO BUILD A COVERED DECK ON THE BACK OF
MY HOUSE, MEASURING THE WIDTH OF HOUSE (20 FT) OUT 8 FT.
APPROX. 10"

THIS WOULD REQUIRE A GRANTED VARIANCE OF ~~8.1 FT~~ ~~(IF MY MEASUREMENT~~
~~WAS CORRECT)~~
8.1 FT. FROM THE SIDE YARD.

Describe the effects on the property if the variance is not granted:

- ① IF THIS VARIANCE IS NOT GRANTED, I WOULD NEED TO BUILD 10 FT FROM MY PROPERTY LINE, MAKING THE DECK MEASURE ~~(10' x 8 FT)~~ ~~(10' x 8 FT)~~ $(10' \times 8 \text{ ft})$, WHICH WOULD BE VERY SMALL.
- ② THIS SMALLER VERSION NOT ONLY WOULD BE LESS APPEALING FOR SPACE & GENERAL AESTHETICS AS WOULD NOT MEET THE FULL POTENTIAL FOR INCREASED PROPERTY VALUE.

Alternatives

Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site plan 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.

- ① The 1st alternative would be not to build at all. This idea I rejected because I would like to add as much property value as possible given the small lot width (33ft)
- ② the 2nd alternative would be to only build w/in the current parameters outlined by the city of Stoughton. Given that this area would be limited to ¹⁰14ft width AND that the cost to deck & cover ¹⁰14ft is close to the same for 20ft I would rather spend most efficient w/ added footage. ~~REJECTED~~

- b. Alternatives you considered that require a lesser variance and reasons you rejected them.

SAME AS ABOVE.

Part 2: Three-Step Test

To qualify for a variance, the applicant must demonstrate that their property meets/passes all of the following three requirements under the authority of Wis. Statutes 62.23(7)(e)7 .

1) Unique property limitations

Unique physical limitations of the property that prevents compliance with zoning ordinance requirements shall generally not be shared by other properties within the City. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Ordinance violations at other properties or prior variance approvals do not provide a basis for granting a variance. Property limitations that prevent ordinance compliance and are common to other properties within the City should be addressed by amending the ordinance.

Do unique physical characteristics of your property prevent compliance with the ordinance?

- Yes. Where are they located on your property? Please discuss and show the features and boundaries of these features on a separate site plan.

I feel that the smaller than average width of my lot represents a unique property limitation. As you can see on the Access Done Co. map, my lot measures 33ft wide, ~~NEARLY~~ HALF of what the other 8 properties measure at 66ft.

- No. A variance cannot be granted.

2) No Harm to Public Interests

A variance may not be granted which results in harm to public interests. In applying this test, the Board must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of neighboring property owner's; the entire community; and the general public. A lack of objections from neighbors does not provide a basis for granting a variance. The following public interests are typical of objectives listed in the purpose statement of zoning ordinances:

- Promote public health, safety and welfare;
- Control and lessen congestion in streets;
- Secure safety from fire, panic and other dangers;
- Encourage protection of groundwater resources;
- Prevent overcrowding of land;
- To preserve, protect and promote property values;
- To facilitate the adequate provision of transportation, water, sewage, schools, parks and other public facilities;
- Preserve burial sites

Ordinance section purpose and intent:

If I were granted an area variance to ^{allow} have a covered porch to be ~~ADDED to the~~ to the entire width of my home, it would definitely ↑ my property value, thus promoting and enhancing the value of the homes in my area.

Purpose(s) of the variance requested as it relates to the purpose and intent of the ordinance:

Uniform setbacks

Analysis of impacts

Discuss impacts that would result if the variance was granted. For each impact, describe potential mitigation measures and the extent to which they reduce project impact (completely, somewhat, or minor). Mitigation measures must address each impact with reasonable assurance that it will be reduced to an insignificant level in the short term, long term and cumulatively.

Short term impacts: (through the completion of construction)

Impact:

Mitigation:

Extent to which mitigation reduces project impact:

Long term impacts: (after construction is completed)

Impact:

Mitigation:

Extent to which mitigation reduces project impact:

PROBABLY won't even see this! fencing existing. Neighbors

Cumulative impacts: (What would happen if a similar variance request was granted for many properties?)

Impact:

Mitigation:

Extent to which mitigation reduces project impact:

Will granting the variance harm the public interest?

Yes. A variance cannot be granted.

No. Mitigation measures described above will be implemented to protect the public interest. Explain.

NO PUBLIC INTEREST WILL BE BURDENED IF THIS VARIANCE IS GRANTED

3) Unnecessary hardship

- For an area variance, 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. The Board must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.
- For a use variance, unnecessary hardship exists only if the property owner shows that they would have no reasonable use of the property without a variance.

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). 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 and/or applicant have the burden of proving unnecessary hardship.

Is unnecessary hardship present?

Yes. Describe: the biggest barrier I HAVE to overcome w/ this property is the small width of the property (33'). My house takes up 20', leaving 13' ~~to~~ split on either side! Most houses in Stoughton have a much wider area to work with, but that is unfortunately, not the case w/ this plot.

No. A variance cannot be granted.

Part 3: Construction/Site Plans.

Attach construction plans detailing the following (if applicable):

- Property lines – a Certified Survey Map may be necessary
- Vegetation removal proposed
- Contour lines (2 ft. intervals)
- Ordinary high water mark
- Floodplain & wetland boundaries
- Dimensions, locations & setbacks of existing & proposed structures
- Utilities, roadways & easements
- Location & extent of filling/grading
- Location & type of erosion control measures
- Any other construction related to your request
- Anticipated project start date

Survey completed
(\$300.00)
by David Riesop 7/31/09
see attached.

Sept/October
2009

~~JUNE 2009~~ if variance granted.

I certify that the information I have provided in this application is true and accurate. I understand that Board of Appeals members and/or City of Stoughton staff may enter and inspect the property in question.

Signed: (owner) 

Date: 4/30/09

Remit to:
City of Stoughton
Department of Planning & Development
Zoning Administrator
381 E. Main Street
Stoughton, WI. 53589

Questions? Call the Zoning Administrator at 608-646-0421

FENCE

FENCE IS BUILT ON PROPERTY LINE

FENCE

FENCE

leaves ~ 12.5ft width for porch/DECK area

10ft from property line
12.5ft

PROPOSED DECK:
20'10" x 8ft.

2ft 2"

1ft

20'10"

HOUSE

DRIVEWAY
9'10" x



S. ACADEMY ST.

219 S. ACADEMY ST.

33' x 132'

* this is NOT DRAWN TO SCALE!

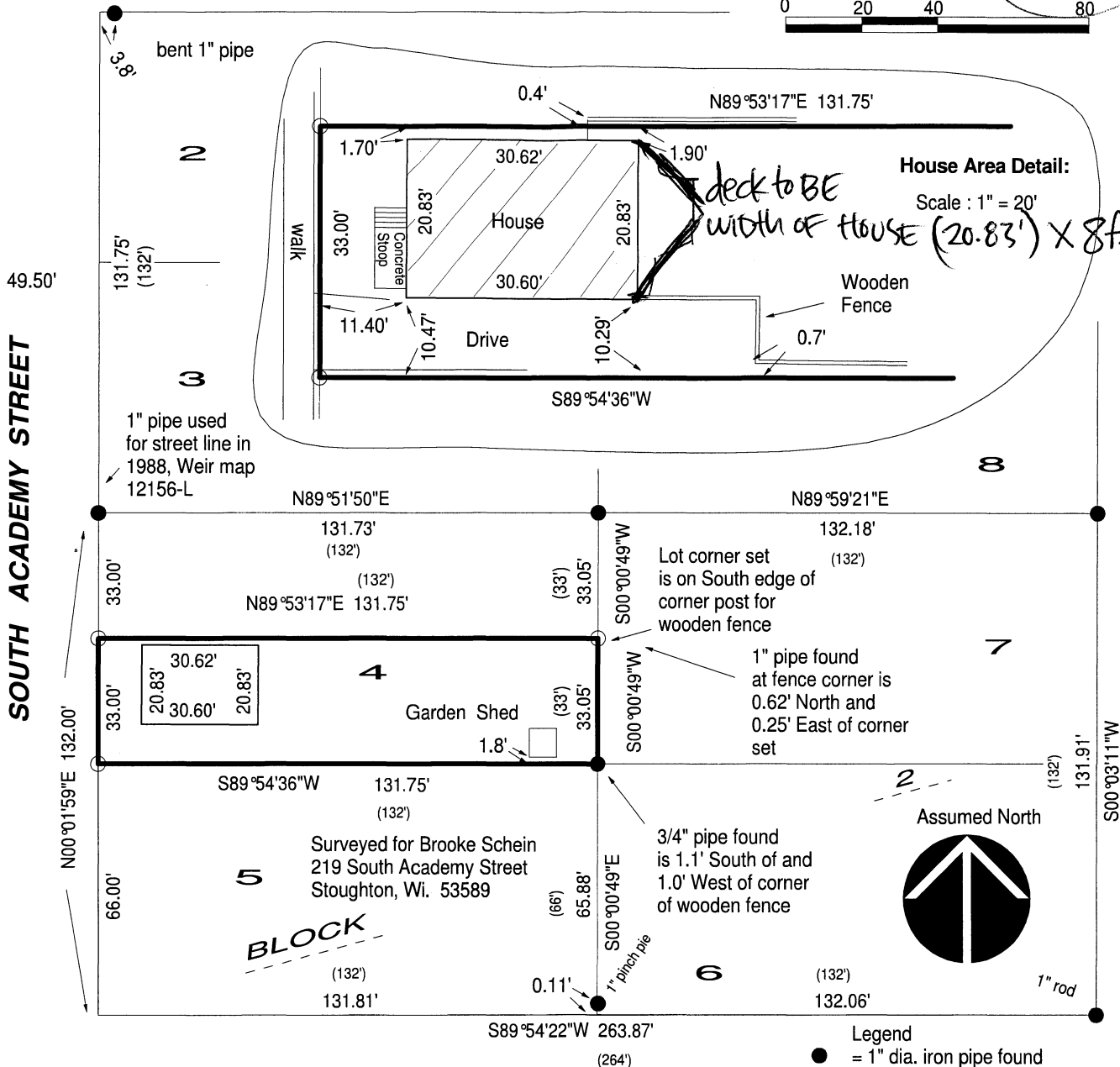
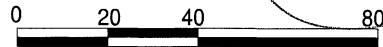
Plat of Survey

South 33 feet of Lot 4, Block 2, John Nelson's Addition to Stoughton,
being in the NW 1/4 of the NW 1/4 of Section 9, T.5N., R.11E.,
City of Stoughton, Dane County, Wisconsin

*8.1 Variance
Side yard*

PARK STREET

Scale 1" = 40'



SOUTH ACADEMY STREET

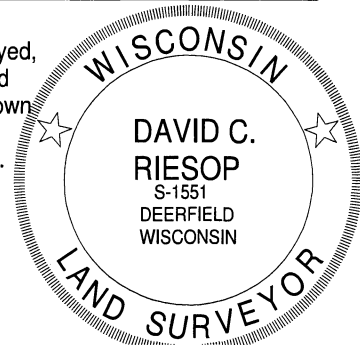
VERNON STREET

- Legend**
- = 1" dia. iron pipe found unless otherwise noted
 - = 3/4" dia. x 18" long rebar with cap set when different, parentheses indicate recorded as values

Surveyor's Certificate

I, David C. Riesop, Wisconsin Registered Land Surveyor, hereby certify that I have surveyed, mapped and monumented the lands as described hereon, and that such map is a true and correct representation of the boundaries of the lands surveyed, including any features shown hereon, and that I have fully complied with the State of Wisconsin Administrative Code Number 7.01 in surveying and mapping the same, to the best of my knowledge and belief.

David C. Riesop S-1551

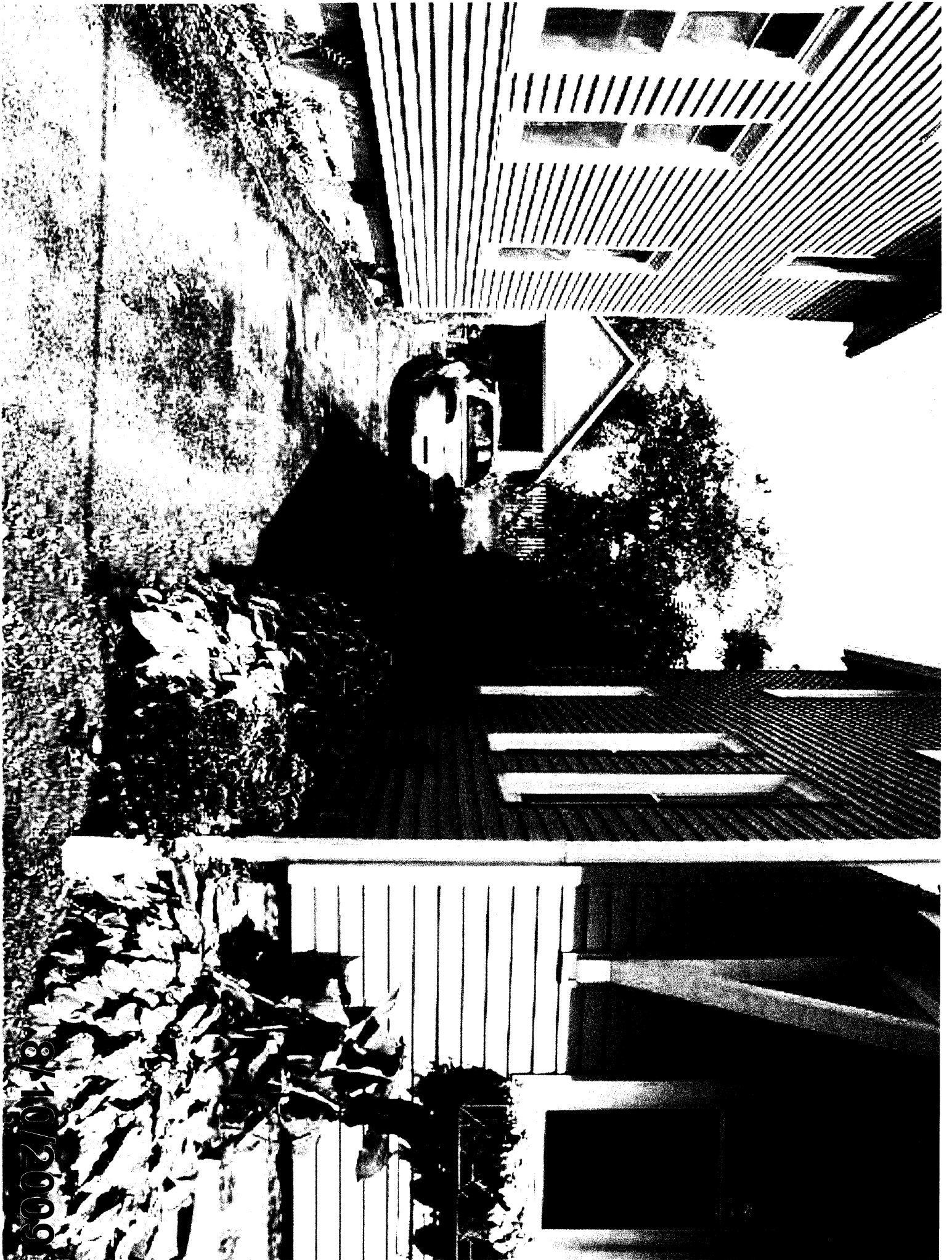


(66') 66.10'

1" rod



8/10/2009



8/10/2009

AccessDane

geographic and land information

Public Access System

[Public Access](#) | [Public Agency Access](#) | [Subscription Access](#) | [Log Out](#)

Friday, April 17, 2009

Parcel information updated on Friday, April 17, 2009 unless otherwise noted.

Parcel Number - 281/0511-092-2944-2

[Return to Previous Page](#)

Parcel Status: Active Parcel



[Show Map](#)

Parcel Information

Municipality CITY OF STOUGHTON
State Municipality Code 281
Township 05
Township Direction N
Range 11
Range Direction E
Section 09
Quarter NW
Quarter-Quarter NW
Plat Name NELSON'S ADDITION, JOHN, TO STOUGHTON

Lot/Outlot/Unit LOT 4
Block/Building 2

Zoning Information

Contact your local city or village office for municipal zoning information.

Owner Name and Address

Owner Status CURRENT OWNER
Name BROOKE LEIGH SCHEIN
Property Address 219 S ACADEMY ST
City State Zip STOUGHTON, WI 53589
Country USA

Parcel Address

Primary Address  219 S ACADEMY ST

Billing Address

Attention
Street 219 S ACADEMY ST
City State Zip STOUGHTON, WI 53589
Country USA

Assessment Information

	2009	2008
Assessment Year		
Valuation Classification	G1	G1
Assessment Acres	0.1	0.1
Land Value	\$17,400.00	\$17,400.00
Improved Value	\$116,400.00	\$116,400.00
Total Value	\$133,800.00	\$133,800.00
Valuation Date	01/16/2009	05/01/2008

About Annual Assessments

Tax Information

2008 Tax Values

Category	Assessed Value	Average Assessment Ratio	Estimated Fair Market Value
Land	\$17,400.00 /	0.9624	\$18,080.00
Improvement	\$116,400.00 /	0.9624	\$120,948.00
Total	\$133,800.00 /	0.9624	\$139,028.00

2008 Taxes:	\$2,389.12
2008 Lottery Credit(-):	\$72.92
2008 First Dollar Credit(-):	\$31.60
2008 Specials(+):	\$135.49
2008 Amount Due:	\$2,420.09

[Show Tax Information Details](#)

[Show Tax Payment History](#)

District Information

Type	State Code	Description
TECHNICAL COLLEGE	0400	MADISON TECH COLLEGE
SCHOOL DISTRICT	5621	STOUGHTON SCHOOL DIST

Tax Property Description

For a complete legal description, see the recorded documents JOHN NELSON ADD S 33 FT OF LOT 4 BLOCK 2

Recorded Documents

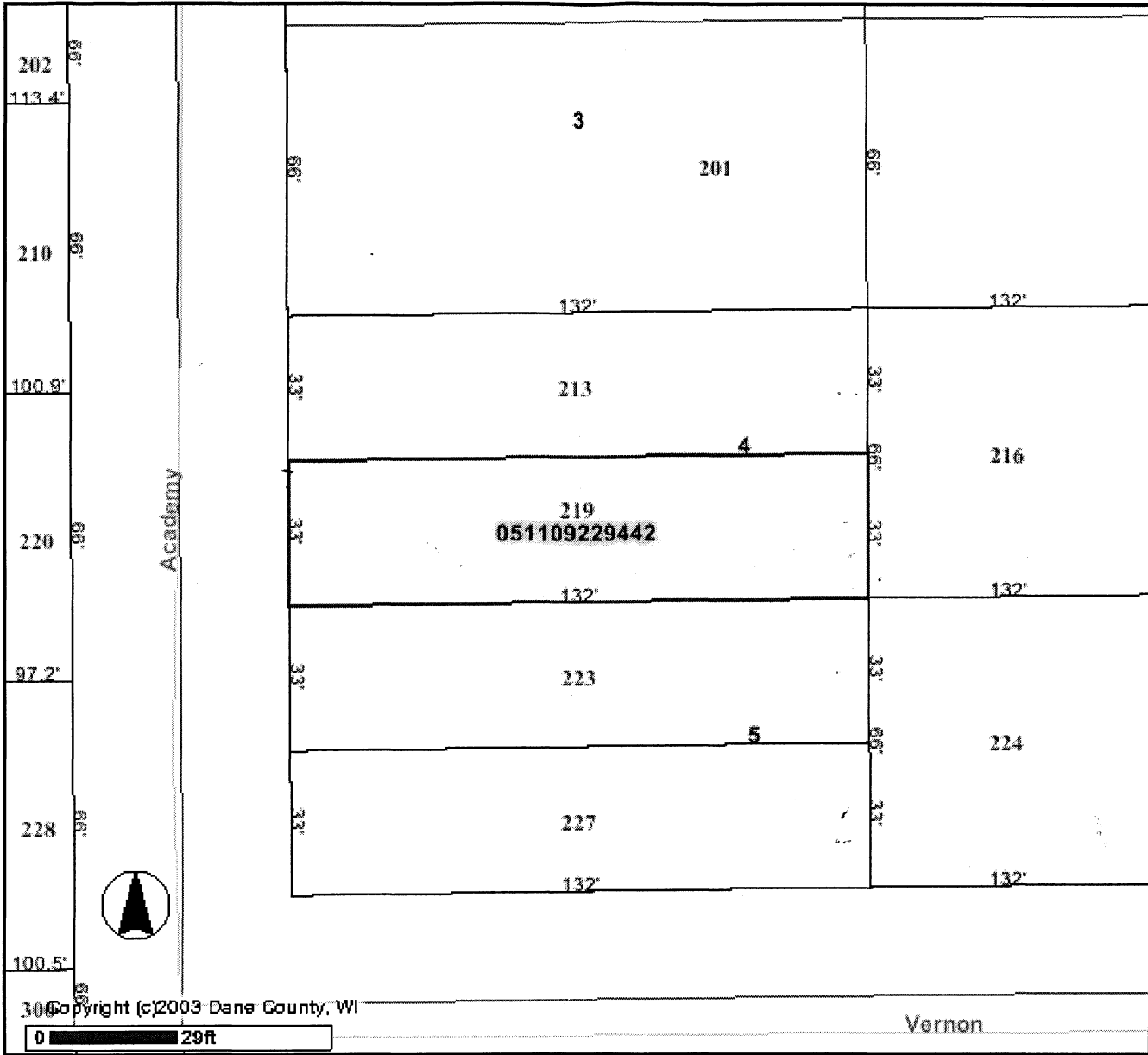
Doc.Type	Date Recorded	Doc. Number	Volume	Page
WD	05/12/2003	3710683		

[Document Types and their Abbreviations](#)

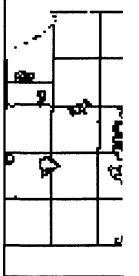
[Document Types and their Definitions](#)

- For questions on property and assessment information, contact [Real Property Listing](#)

Dane County DCiMap



- Re
- Lo
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- St:
- Int
- US
- On
- Pa
- On
- Pl
- Ac
- Hy
- Rh
- Lo
- Mi
- Hy
- La



DISCLAIMER
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0 29ft

Vernon