

# **OFFICIAL MEETING NOTICE & AGENDA**

The City of Stoughton will hold a meeting of the **Board of Appeals** on **Monday, August 26, 2013** at **5:00 p.m. or as soon as this matter may be heard** in the **Public Safety Building, Council Chambers, Second Floor, 321 S. Fourth Street**, Stoughton, Wisconsin.

## **AGENDA:**

1. Call meeting to order.
2. Consider approval of the Board of Appeals minutes of August 19, 2013.
3. Ben Di Salvo, owner of the property at 819 N. Page Street, Stoughton, Wisconsin, has requested a variance from zoning code section 78-105(4)(b)8bF, "Building to nonresidential side lot line: Ten feet, zero feet on zero lot line side, 40 feet for lot adjacent to a street officially mapped as being equal to or exceeding 100 feet" and zoning code section 78-105(4)(b)8bL, "Minimum building separation: 20 feet, zero feet where property line divides attached buildings, 40 feet for a lot adjacent to a street officially mapped as being equal to or exceeding 100 feet."

The applicant is requesting the variance to allow rezoning the property from General Industrial to Planned Business with the intent to convert the use from primarily storage to primarily retail sales and restaurant.

4. Adjournment.

8/20/13mps

## **PACKETS SENT TO BOARD MEMBERS:**

Russ Horton, Chair

Al Wollenzien, Vice-Chair

David Erdman, Secretary

Robert Busch

Gilbert Lee

Bob McGeever, Alternate 1

Bob Barnett, Alternate 2

cc: Mayor Donna Olson (Packet)

City Clerk Pili Hougan (via-email)

Receptionists (via-email)

Zoning Administrator Michael Stacey (2 packets)

Stoughton Newspapers (via-fax)

Ben Di Salvo (via-email)

Department Heads (via-email)

Council Members (via-email)

Steve Kittelson (via-email)

City Attorney Matt Dregne (Packet)

Derek Westby (via-email)

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.**

## **Board of Appeals Meeting Minutes**

**Monday August 19, 2013 5:00 p.m.**

**Public Safety Building, Council Chambers, 321 S. Fourth Street, Stoughton WI.**

**Members Present:** Russ Horton, Chair; Robert Barnett and Bob McGeever.

**Members Absent and Excused:** David Erdman, Secretary; Gilbert Lee; Robert Busch and Al Wollenzien

**Staff:** Michael Stacey, Zoning Administrator.

**Guests:** Daniel Harkins

- 1. Call meeting to order.** Horton called the meeting to order at 5:00 pm.
- 2. Consider approval of the July 22, 2013 minutes.** Motion by **McGeever** to approve the July 22, 2013 Board of Appeals minutes as presented, 2<sup>nd</sup> by **Barnett**. Motion carried 3 – 0.
- 3. Daniel Harkins of Dyckhoff Properties, LLC, owner of the property at 335 Industrial Circle, Stoughton, Wisconsin, Parcel number 281/0511-051-9326-2, with a legal description of: LOT 1 CSM 13527 CS88/150&151-6/25/2013 F/K/A LOT 1 CSM 12327 CS76/236&238-12/3/2007 & ALSO INCL & DESCR AS SEC 5-5-11 PRT SW1/4NE1/4 (1.387 ACRES), has requested a variance from zoning code section 78-702(11) “Traffic control. The traffic generated by any use shall be channelized and controlled in a manner which avoids congestion on public streets and other safety hazards. Traffic into and out of all off-street parking, loading, and traffic circulation areas serving six or more parking spaces shall be forward moving, with no backing into streets or pedestrian ways. Traffic control devices shall be required as determined by the director of planning and development.” The applicant is requesting to allow semi-trucks to back from the street to a new loading dock.**

Horton introduced the request and opened the public hearing.

Daniel Harkins explained the request.

McGeever questioned if the new loading dock would replace the existing dock. Mr. Harkins stated the new dock would be for semi-truck while straight trucks could still use the existing dock.

Michael Stacey gave the staff review of the proposed variance request according to the 3 standards necessary to approve a variance request as follows:

### **A. Unnecessary Hardship:**

*Does the ordinance in place today unreasonably prevent the landowner from using the property for a permitted purpose or are the standards unnecessarily burdensome?* The options for the applicant are limited due the layout and size of the lot. We believe, in this case, the applicant is creating a better situation by allowing trucks to back farther onto the property and aligning the drive entrance with Commerce Road. Keep in mind the applicant can continue to use the existing loading dock which is a grandfathered use.

B. Unique Property Limitation:

*Are there any unique property limitations such as the shape, slope or size? The limitations should not be common to a number of properties and the circumstances of the individual are not justification.* The lot is somewhat unique in that businesses that have a need for large truck deliveries are typically on larger lots with ample room for a truck turn-around. The lot is relatively flat and not irregularly shaped. No wetlands onsite.

C. Protection of Public Interest.

*What are the potential positive impacts of this request?*

Allowing trucks to back all the way onto the site and alignment with Commerce Road are positive impacts of this request. The site plan for the addition has been approved by the Planning Commission contingent on the applicant working with city staff on the truck backing issue.

*What are the potential negative impacts of the request such as environmental, aesthetics, safety, etc...?*

We have not heard any negative comments from the public.

Alternative solutions.

*Are there any alternative solutions to the request that would meet the requirements of the ordinance?* Providing a truck turn-around onsite was considered but would still require the truck to maneuver into the street right-of-way.

Recommendations:

We recommend approval of the variance contingent on all large trucks using the new loading dock.

Horton closed the public hearing.

Motion by **Barnett** to approve the variance request contingent on all semi-trucks using the new loading dock, 2<sup>nd</sup> by **McGeever**. Motion carried 3 – 0.

**4. Adjournment.** Motion by **Barnett** to adjourn at 5:13 pm, 2nd by **McGeever**. Motion carried 3 - 0

Respectfully Submitted,  
Michael Stacey

## OFFICIAL NOTICE

Please take notice that Ben Di Salvo, owner of the property at 819 N. Page Street, Stoughton, Wisconsin, has requested a variance from zoning code section 78-105(4)(b)8bF, "Building to nonresidential side lot line: Ten feet, zero feet on zero lot line side, 40 feet for lot adjacent to a street officially mapped as being equal to or exceeding 100 feet" and zoning code section 78-105(4)(b)8bL, "Minimum building separation: 20 feet, zero feet where property line divides attached buildings, 40 feet for a lot adjacent to a street officially mapped as being equal to or exceeding 100 feet."

The property at 819 N. Page Street is formally described as follows:

Parcel number 281/0511-052-9830-3, with a legal description of: SEC 5-5-11 PRT SE1/4NW1/4 & PRT SW1/4NE1/4 BEG N PAGE ST C/L 33.1 FT W OF NW COR BLOCK 18 SARAHE TURNER'S ADDN TH N6DEGE 100 FT ALG SD C/L EXT TH S89DEGE 486.4 FT TO SW LN RR R/W TH S29DEGE 114.2 FT ALG SD R/W TO NE COR SD ADDN TH N89DEGW 551.2 FT ALG N LN SD ADDN TO POB SUBJ TO UTIL ESMT TO WP&L CO AS DESCR IN R9250/79; and parcel number 281/0511-053-0573-2, with a legal description of: SARAHE TURNER ADD CORRECTED SURVEY N 10 FT OF LOT 32 & N 10 FT OF LOT 33 ALL IN BLOCK 18.

The applicant is requesting the variance to allow rezoning the property from General Industrial to Planned Business with the intent to convert the use from storage to retail sales and restaurant.

Notice is hereby given that the Board of Appeals will conduct a hearing on this matter on August 26, 2013 at 5:00 p.m. in the Council Chambers, Second Floor, Public Safety Building, 321 S. Fourth Street, Stoughton.

For questions related to this notice contact the City Zoning Administrator at 608-646-0421

Published: August 15, 2013 HUB





Neider & Boucher, s.c.  
Attorneys and Counselors

University Research Park • 401 Charmany Dr • Ste 310 • PO Box 5510 • Madison, WI 53705-0510 • 608.661.4500 • FAX 608.661.4510 • neiderboucher.com

August 2, 2013

**VIA EMAIL (mstacey@ci.stoughton.wi.us) & U.S. MAIL**

Mike Stacey  
Zoning Administrator  
City of Stoughton  
381 East Main Street  
Stoughton, WI 53589

Re: 819 N. Page Street, Stoughton, WI 53589

Dear Mike:

Enclosed are applications for rezone, variance and conditional use permit for Di Salvo's Enterprises, LLC, the owner of 819 N. Page Street in Stoughton, Wisconsin (which consists of two legal parcels, Parcel Numbers 281/0511-053-0573-2 and 281/0511-052-9830-3. I am enclosing parcel information from Access Dane for your reference). Along with these applications we are enclosing a check for \$1,210 to cover the application fees for each of the three requests. We are also enclosing narratives and explanations with each application as well as a copy of the Location Survey that our client had performed by Wisconsin Mapping, LLC. It is my understanding that you will supply, for each application, a copy of the current Zoning Map as well as a copy of the Planned Land Use Map for this property.

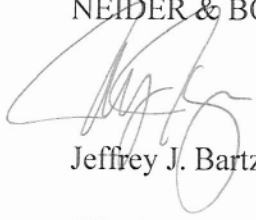
As we discussed, essentially our client is looking to slightly change the use of the parcels at 819 N. Page Street from mostly assembly and production to retail sales and deli sandwich sales. We believe that the proposed use is more consistent with the long term planning for the City of Stoughton for that area and would be an excellent addition and a point of interest for not only the residents of Stoughton but also the businesses located on that strip.

Mike Stacey  
August 2, 2013  
Page 2

The variance request is necessary because when the building was built it was built extremely close to the lot line, so therefore no change in zoning or use can be made of these properties without a variance approval.

Respectfully submitted,

NEIDER & BOUCHER, S.C.

A handwritten signature in dark ink, appearing to read 'Jeffrey J. Bartzen', is written over the printed name.

Jeffrey J. Bartzen

JJB:sjy

Enclosures

cc: David M. Gorwitz (w/ enclosures, via email only)  
Ben Di Salvo (w/ enclosures, via email only)

## Public Access System

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

Friday, August 2, 2013

Parcel information updated on Friday, August 02, 2013 unless otherwise noted.

Parcel Number - **281/0511-052-9830-3**[Return to Previous Page](#)Parcel Status: Active Parcel[Show Map](#)[Map Questions?](#)

## Parcel Information

Municipality CITY OF STOUGHTON  
 State Municipality Code 281  
 Township 05  
 Township Direction N  
 Range 11  
 Range Direction E  
 Section 05  
 Quarter NW  
 Quarter-Quarter SE  
 Plat Name METES AND BOUNDS  
 Block/Building

Restrictive Covenants [Show Restrictions for this Plat, CSM, or Quarter](#)

## Zoning Information

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

## Owner Name

Owner Status CURRENT OWNER  
 Name DI SALVO'S ENTERPRISES LLC  
 - [Show Name? Click here to opt-out.](#)

## Parcel Address

Primary Address 819 N PAGE ST

## Billing Address

Attention  
 Street 1716 HILDEBRANDT ST  
 City State Zip STOUGHTON, WI 53589  
 Country USA

## Assessment Information

Assessment Year	2013	2012
Valuation Classification	G2	G2
Assessment Acres	1.191	1.191
Land Value	\$83,000.00	\$83,000.00
Improved Value	\$42,000.00	\$115,800.00
Total Value	\$125,000.00	\$198,800.00
Valuation Date	04/05/2013	05/08/2012

[About Annual Assessments](#)

## Tax Information

[Pay Taxes Online](#)

2012 Tax Values	<a href="#">E-Statement</a>	<a href="#">E-Bill</a>	<a href="#">E-Receipt</a>
Category	Assessed Value	Average Assessment Ratio	Estimated Fair Market Value
Land	\$83,000.00 /	0.9916	\$83,704.00
Improvement	\$115,800.00 /	0.9916	\$116,781.00
Total	\$198,800.00 /	0.9916	\$200,485.00

2012 Taxes:	\$4,594.15
2012 Lottery Credit(-):	\$0.00
2012 First Dollar Credit(-):	\$76.00
2012 Specials(+):	\$0.00
2012 Amount:	\$4,518.15

[Show Tax Information Details](#)[Show Tax Payment History](#)

## District Information

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

## Tax Property Description

For a complete legal description, see the recorded documents SEC 5-5-11 PRT SE1/4NW1/4 & PRT SW1/4NE1/4 BEG N PAGE ST C/L 33.1 FT W OF NW COR BLOCK 18 SARAH E TURNER'S ADDN TH N6DEGE 100 FT ALG SD C/L EXT TH S89DEGE 486.4 FT TO SW/LN RR R/W TH S29DEGE 114.2 FT ALG SD R/W TO NE COR SD ADDN TH N89DEGW 551.2 FT ALG N LN SD ADDN TO POB SUBJ TO UTIL ESMT TO WP&L CO AS DESCR IN R9250/79

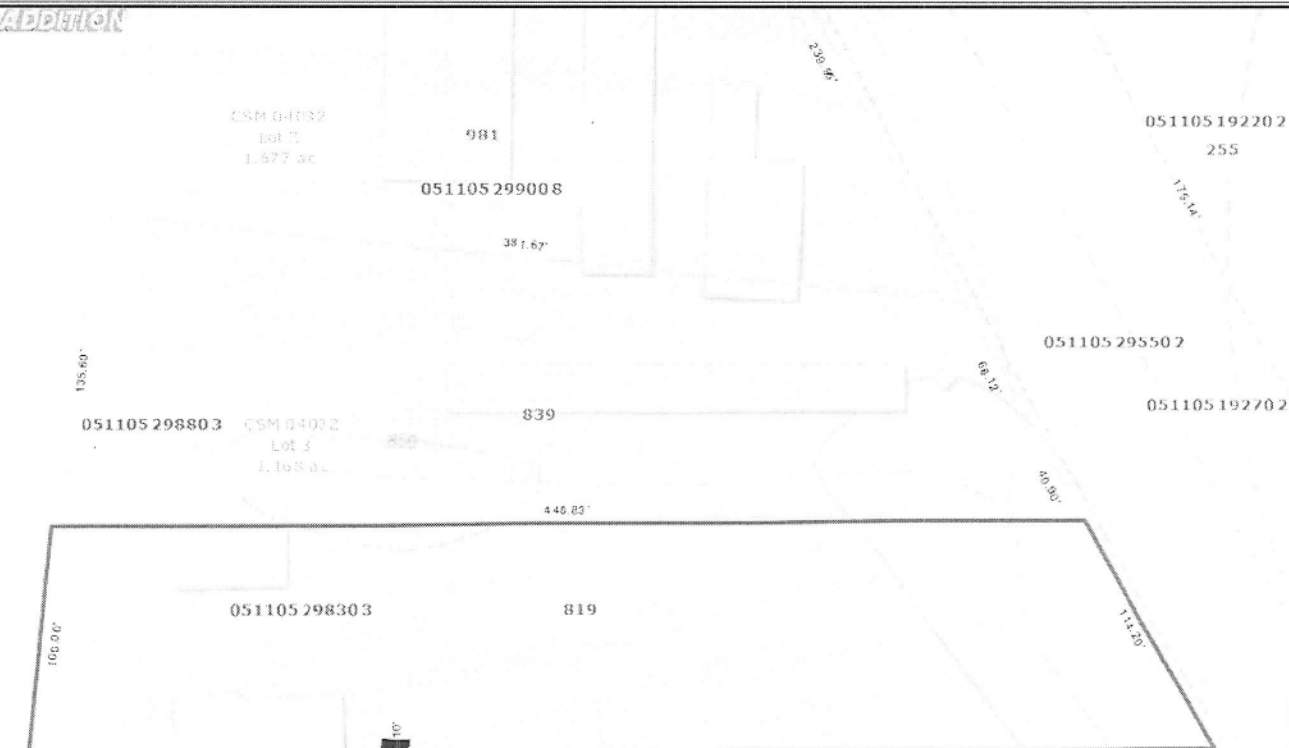
## Recorded Documents

Doc. Type	Date Recorded	Doc. Number	Volume	Page
D	09/26/2012	4916251		
QCD	02/02/2000	3189499		
WD		2976378		
			D806	294

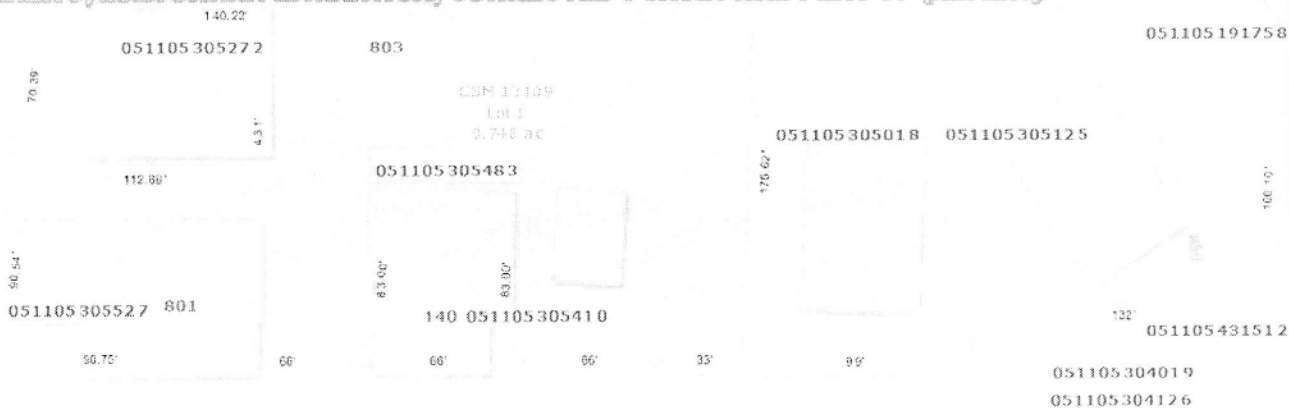
## DocLink Now Available!

DocLink is a feature that connects this property to recorded documents. If you'd like to use DocLink, all you need to do is

THE ADDITION



TURNER'S, MRS. SARAH E. ADDITION, CORRECTED SURVEY AND PLAT OF (REPLAT)



WEST STREET

This map was  
created from  
map information  
provided by  
the original  
survey and is  
cartographic

## Public Access System

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

Friday, May 10, 2013

Parcel information updated on Friday, May 10, 2013 unless otherwise noted.

Parcel Number - **281/0511-053-0573-2**[Return to Previous Page](#)Parcel Status: Active Parcel[Show Map](#)[Map Questions?](#)

## Parcel Information

Municipality	CITY OF STOUGHTON
State Municipality Code	281
Township	05
Township Direction	N
Range	11
Range Direction	E
Section	05
Quarter	SW
Quarter-Quarter	NE
Plat Name	TURNER'S, MRS. SARAH E. ADDITION, CORRECTED SURVEY AND PLAT OF (REPLAT)
Block/Building	18
Lot	3233
Restrictive Covenants	<a href="#">Show Restrictions for this Plat, CSM, or Quarter</a>

## Zoning Information

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

## Owner Name

Owner Status CURRENT OWNER  
Name DI SALVO'S ENTERPRISES LLC

[- Show Name? Click here to opt-out.](#)

## Parcel Address

Primary Address 819 N PAGE ST

## Billing Address

Attention  
Street 1716 HILDEBRANDT ST  
City State Zip STOUGHTON, WI 53589  
Country USA

## Assessment Information

Assessment Year	2013	2012
Valuation Classification	G2	G2
Assessment Acres	0.038	0.038
Land Value	\$3,300.00	\$3,300.00
Improved Value	\$0.00	\$0.00
Total Value	\$3,300.00	\$3,300.00
Valuation Date	04/05/2013	05/08/2012

[About Annual Assessments](#)

## Tax Information

[Pay Taxes Online](#)

2012 Tax Values		<a href="#">E-Statement</a>	<a href="#">E-Bill</a>	<a href="#">E-Receipt</a>
Category	Assessed Value	Average Assessment Fair Market Ratio Value		
Land	\$3,300.00 /	0.9916	\$3,328.00	
Improvement	\$0.00 /	0.9916	\$0.00	
Total	\$3,300.00 /	0.9916	\$3,328.00	

2012 Taxes:	\$76.26
2012 Lottery Credit(-):	\$0.00
2012 First Dollar Credit(-):	\$0.00
2012 Specials(+):	\$0.00
2012 Amount:	\$76.26

[Show Tax Information Details](#)[Show Tax Payment History](#)

## District Information

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

## Tax Property Description

For a complete legal description, see the recorded documents  
SARAH E TURNER ADD CORRECTED SURVEY N 10 FT OF LOT 32 &  
N 10 FT OF LOT 33 ALL IN BLOCK 18

## Recorded Documents

Doc.Type	Date Recorded	Doc. Number	Volume	Page
D	09/26/2012	<a href="#">4916251</a>		
QCD	02/02/2000	<a href="#">3189499</a>		
WD		<a href="#">2976378</a>		

051105274310

051105274203 924

051105299008

981

051105295502

051105274507

051105298803

839

051105275392

820 822

051105298303

819

051105305732

051105305272

803

051105308113

806 802

051105305483

051105305125

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051105303323 209

051105304448 051105304331

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This map was  
Officially  
Map information  
guaranteed  
this map is  
correct and  
survey and  
cartographic

## **Board of Appeals – Variance Information & Application**

### **City of Stoughton**

A variance is a relaxation of a standard in a zoning ordinance and is decided by the Zoning Board of Appeals. The Board is a quasi-judicial body because it functions similar to a court. The Board is appointed and governed by the State of Wisconsin zoning enabling law, contained in 62.23 Wis. Stats. The five regular members and two alternates of the Board are citizens appointed by the Mayor and approved by Council, who give their time without compensation. The Board's duty is not to compromise ordinance provisions for a property owner's convenience rather to apply legal criteria provided in state laws, court decisions and the local zoning ordinance to a specific fact situation. The board may only approve a variance request that meets the "Three Step Test" which is part of the application process. Typically, there are five voting members present for a hearing and it takes a majority of a quorum or three affirmative votes to approve a variance when five members are present. There must be at least four board members present to conduct a hearing. The alternates are used in case of an absence or conflict of interest. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden. There are two types of variances; a "use variance" would allow a landowner to use a property for an otherwise prohibited use; while an "area variance" provides an incremental relief (normally small) from a physical dimensional restriction such as a building height or setback.

#### **Next Steps:**

**Complete the variance review and approval form** (attached) and submit a fee according to the current fee schedule;

**Locate and mark lot corners and/or property lines**, the proposed building footprint and all other features of your property (if applicable) related to your request so that the planning staff and/or Board members may inspect the site. There are copies of plats in the planning office at City Hall that may help an applicant locate property stakes with the use of a metal detector. In some cases a surveyor may need to be hired.

**After submitting the application and fee**, a planning staff member will contact the Board Chair to determine a hearing date. The Board typically will meet on the first Monday of the month as necessary, though in some cases a hearing may be necessary on a different date at the discretion of the Board Chair. Once a date has been determined, planning staff will publish a notice of the request for a variance in the city's official newspaper noting the location, reason and time of the public hearing. All property owners within 300 feet of your property and any affected state agency will also be given notice of the hearing. At the hearing, any party may appear in person or may be represented by an agent and/or attorney. The burden will be on the property owner or applicant to provide information upon which the Board may base its decision. The owner and/or representative must convince the Board to make a ruling in the owner/applicant's favor. City planning staff will provide a review of the variance request as it relates to the Three Step Test. The Board must make its decision based only on the evidence provided at the time of the hearing. The owner or representative must be present at the hearing to explain the request and answer questions because the board may not have sufficient evidence to rule in favor of the request and must then deny the application.

**Note:** While Wisconsin Statutes do not specifically prohibit *use variances*, there are a number of practical reasons why they are not advisable:

- Unnecessary hardship must be established in order to qualify for a variance. This means that without the variance, no reasonable use can be made of the property.
- Many applications for *use variances* are in fact administrative appeals. Often the Board of Appeals is asked to determine whether a proposed use is included within the meaning of a particular permitted or conditional use or whether it is sufficiently distinct as to exclude it from the ordinance language. Such a decision is not a *use variance* but an appeal of the administrator's interpretation of ordinance text.
- Zoning amendments are a more comprehensive approach than *use variances*. Elected officials consider the larger land area to avoid piecemeal decisions that may lead to conflict between adjacent incompatible uses or may undermine comprehensive plan and/or ordinance objectives. Cities have approval authority for zoning ordinance amendments.
  - Zoning map amendments can change zoning district boundaries so as to allow uses provided in other zoning districts.
  - Zoning text amendments can add (or delete) permitted or conditional uses allowed in each zoning district.



## Area and Use Variance Decision Process

**Step 1: Consider alternatives to the variance request.**

**Step 2: Determine if all three statutory variance criteria are met.**

**Area Variance** – Provides an increment of relief (normally small) from a dimensional restriction such as building height, area, setback, etc.

**Use Variance** – Permits a landowner to put property to an otherwise prohibited use.

**1. Unnecessary Hardship** exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Consider these points:

- Purpose of zoning restriction
- Zoning restriction's effect on property
- Short term, long term and cumulative effects of variance on neighborhood and public interest.

**1. Unnecessary Hardship** exists when no reasonable use can be made of the property without a variance.

**2. Unique physical property limitations** such as steep slopes or wetlands must prevent compliance with the ordinance. The circumstances of an applicant, such as a growing family, elderly parents, or a desire for a larger garage, are not legitimate factors in deciding variances.

**3. No harm to public interests** A variance may not be granted which results in harm to public interests. Public interests can be determined from the general purposes of an ordinance as well as the purposes for a specific ordinance provision. Analyze short-term, long-term and cumulative impacts of variance requests on the neighbors, community and statewide public interest.

**Step 3: Grant or deny request for variance recording rationale and findings.**

## City of Stoughton Procedural Checklist for Variance Review and Approval (Requirements per Section 78-910)

This form is designed to be used by the Applicant as a guide to submitting a complete application for a variance and by the City to process said application. Part II is to be used by the Applicant to submit a complete application; Parts I - IV are to be used by the City as a guide when processing said application.

### I. Recordation of Administrative Procedures for City Use.

Pre-submittal staff meeting scheduled:

VIA EMAIL

Date of Meeting: \_\_\_\_\_ Time of Meeting: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

Follow-up pre-submittal staff meetings scheduled:

Date of Meeting: \_\_\_\_\_ Time of Meeting: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

Date of Meeting: \_\_\_\_\_ Time of Meeting: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

Application form filed with Zoning Administrator Date: \_\_\_\_\_ By: \_\_\_\_\_

Application fee of \$ 390 received by Zoning Administrator Date: 8/6/13 By: MFS

Professional consultant costs agreement executed (if applicable): Date: \_\_\_\_\_ By: \_\_\_\_\_

### II Application Submittal Packet Requirements for Applicants Use.

Prior to submitting the final complete application as certified by the Zoning Administrator, the Applicant shall submit 1 initial draft application packet for staff review, followed by one revised draft final application packet based upon staff review and comments.

Initial Packet (1 cpy to Zoning Administrator)

Date 8/6/13 By MFS

☐ Draft Final Packet (1 cpy to Zoning Administrator)

Date \_\_\_\_\_ By: \_\_\_\_\_

☐ ☒

☐ (a) A map of the subject property:

- ☐ Showing all lands for which the variance is proposed.
- ☐ Map and all its parts are clearly reproducible with a photocopier.
- ☐ Map scale not less than one inch equals 800 feet.
- ☐ All lot dimensions of the subject property provided.
- ☐ Graphic scale and north arrow provided.

☐ (b) A map, such as the Planned Land Use Map, of the generalized location of the subject property to the City as a whole.

☐ (c) A written description of the proposed variance describing the type of specific requirements of the variance proposed for the subject property.

☐ (d) A site plan of the subject property as proposed for development.

☐ (e) Written justification for the requested variance consisting of the reasons why the Applicant believes the proposed variance is appropriate, particularly as evidenced by compliance with the standards set out Section 78-910(3)1- 6. (See part III below.)

### III Justification of the Proposed Variance for City Use.

- 1 What exceptional or extraordinary circumstances or special factors are present which apply only to the subject property? The response to this question shall clearly indicate how the subject property contains factors which are not present on other properties in the same zoning district.

Describe the hardship or that of other properties, and not one which affects all properties similarly. Such a hardship or difficulty shall have arisen because of the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of the current, applicable zoning regulations, and is not economically suitable for a permitted use or will not accommodate a structure of reasonable design for a permitted use if all area, yard, green space, and setback requirements are observed.

**Please see attached.**

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#### NOTES:

- Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance.
- Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting-off existing access to a public right-of-way or deed restrictions imposed by the owner's predecessor in title are considered to be such self-imposed hardships
- Violations by, or variances granted to, neighboring properties shall not justify a variance
- The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance. (For example, if a lot were unbuildable because of topography in the absence of any or all setback requirements.)

- 2 In what manner do the factors identified in 1. above, prohibit the development of the subject property in a manner similar to that of other properties under the same zoning district? The response to this question shall clearly indicate how the requested variance is essential to make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.

**Please see attached.**

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3. Would the granting of the proposed variance be of substantial detriment to adjacent properties? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on adjacent properties.

**Please see attached.**

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4. Would the granting of the proposed variance as depicted on the required site plan (see (d), above), result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of the Zoning Ordinance, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide growth and development? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.

**Please see attached.**

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5. Have the factors which present the reason for the proposed variance been created by the act of the Applicant or previous property owner or their agent (for example: previous development decisions such as building placement, floor plan, or orientation, lot pattern, or grading) after the effective date of the Zoning Ordinance (see Section 78-011.) The response to this question shall clearly indicate that such factors existed prior to the effective date of the Ordinance and were not created by action of the Applicant, a previous property owner, or their agent.

**Please see attached.**

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6. Does the proposed variance involve the regulations of Section 78-203, Appendix C (Table of Land Uses)? The response to this question shall clearly indicate that the requested variance does not involve the provisions of this Section.

**Please see attached.**

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IV. Final Application Packet Information for City Use.

Receipt of Final Application Packet by Zoning Administrator

Date: 8/6/13 By: M/S

Notified Neighboring Property Owners (within 300 feet)

Date: 8/8/13 By: \_\_\_\_\_

Notified Neighboring Township Clerks (within 1,000 feet)

Date: 8/29/13 By: \_\_\_\_\_

Class 1 legal notice sent to official newspaper by Zoning Administrator Date: 8/6/13 By: \_\_\_\_\_

Class 1 legal notice published on 8/15/13 By: \_\_\_\_\_

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) Bm B. Di Salvo

Date: 8/5/2013

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

**Board of Appeals – Variance Information & Application  
City of Stoughton**

**Parcels: 281/0511-053-0573-2 & 281/0511-052-9830-3**

**Attachment**

This narrative is to accompany the variance request proposed by Di Salvo's Enterprises, LLC for two parcels located at 819 N. Page Street. The variance request is filed as part of Zoning and Conditional Use Permit requests by Di Salvo's Enterprises, LLC. The purpose of the zoning and conditional use permit applications is to allow for this facility at 819 N. Page Street to be converted from storage, assembly and supply provisions to a retail sales of products related to Di Salvo's pizza as well as a light deli to serve deli sandwiches. Due to the property line and position of the existing building, the setback does not fit with any use currently allowed by the City. Therefore, to accommodate any zoning change or change of use, a variance is required to except out the side yard setback as shown on the attached map. Without a variance approval, this property can never change its use and will always be relegated to more of a storage facility. This type of use is inconsistent with the City's long-term plan and its desire to make this area more retail and consumer friendly.

In summary, without the variance request, the property could not be used for what is expected to be a permitted use consistent with the City's long term plan.

The change in zoning and the variance approval will not have any negative impact on the adjacent properties but rather will be consistent with, and welcomed by, the adjacent properties.

The proposed zoning amendment, giving rise to the variance request, has been addressed in the zoning request and conditional use permit request; however, the proposed use and variance request would not have any substantial or undue adverse impact on the character of the neighborhood environmental or traffic factors. The only impact on the area will be to slightly increase parking at the facility for retail sales. However, this use is consistent with the City's Comprehensive Plan and will improve the use and make it more consistent with Page Street.

The applicant in this case has not done anything to change the character of the property other than to file a rezoning application. The proximity of the existing building to the lot line is an old and historic building which predates the side yard setback requirements of the City.

The proposed variance does not involve the provisions of 78, 203. The proposed zoning and conditional use permit have been applied for separately and thus the variance request is conditioned also upon approval of the zoning and conditional use permit requests.

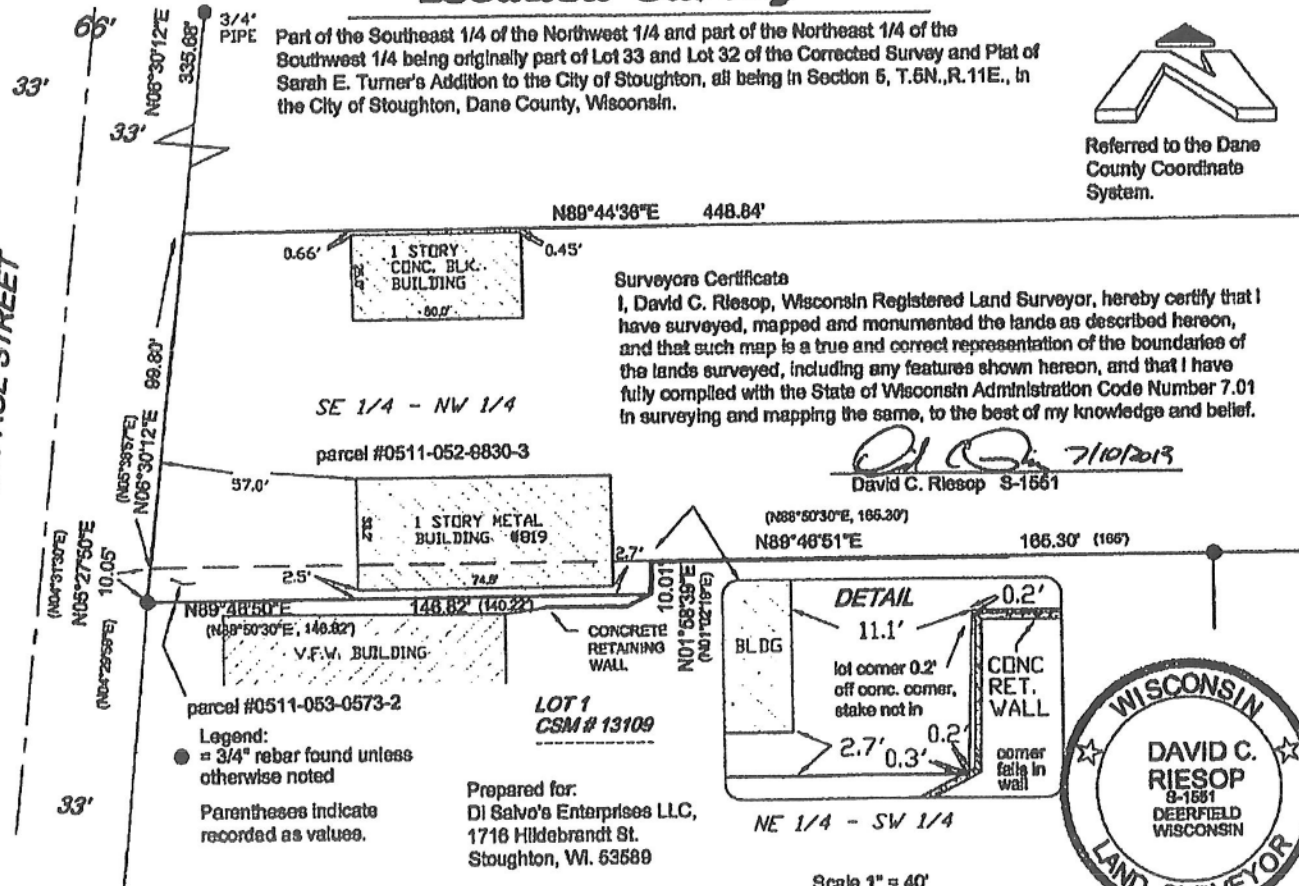
# Location Survey

Part of the Southeast 1/4 of the Northwest 1/4 and part of the Northeast 1/4 of the Southwest 1/4 being originally part of Lot 33 and Lot 32 of the Corrected Survey and Plat of Sarah E. Turner's Addition to the City of Stoughton, all being in Section 5, T.6N., R.11E., in the City of Stoughton, Dane County, Wisconsin.



Referred to the Dane County Coordinate System.

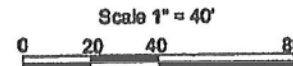
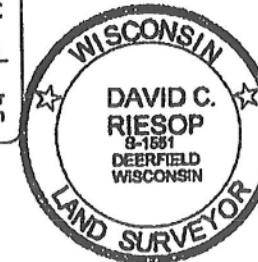
NORTH PAGE STREET



## Surveyors 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 Administration Code Number 7.01 in surveying and mapping the same, to the best of my knowledge and belief.

*David C. Riesop* 7/10/2013  
David C. Riesop S-1551



Dwg. No. 4340-13 Date 07/03/2013  
Sheet 1 of 1

**Wisconsin Mapping, LLC**

surveying and mapping services  
308 West Quarry Street, Deerfield, Wisconsin 53531  
(608) 784-5802





\*Painting upper and rest of building similar to existing brick color



Painting upper red and rest of building similar to existing brick color/red, white trim across



Painting upper a carmel color and rest of building similar to existing brick color/carmel, white trim



## **DEPARTMENT OF PLANNING & DEVELOPMENT REVIEW**

Name and Address of Applicant: Ben DiSalvo  
1716 Hildebrandt Street  
Stoughton, WI. 53589

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

78-105(4)(b)8bF, "Building to nonresidential side lot line: Ten feet, zero feet on zero lot line side, 40 feet for lot adjacent to a street officially mapped as being equal to or exceeding 100 feet" and zoning code section 78-105(4)(b)8bL, "Minimum building separation: 20 feet, zero feet where property line divides attached buildings, 40 feet for a lot adjacent to a street officially mapped as being equal to or exceeding 100 feet."

### **Summary of Request**

*The existing building is very close to the south side lot line (see survey). The owner would like to rezone the property from General Industrial to Planned Business to allow retail and restaurant uses. The side lot line requirement for the Planned Business district is 10 feet. The building is also across a remnant lot that should be combined with the primary larger parcel.*

DATE OF APPLICATION: August 6, 2013

DATE PUBLISHED: August 15, 2013

DATE NOTICES MAILED: August 8, 2013

DATE OF HEARING: August 26, 2013

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 819 N. Page Street is approximately 1.2 acres and is currently zoned General Industrial. The issue here is simply the fact the building was allowed to be placed very close to the south side lot line or the lot was split leaving the setback as it is today. The physical surroundings, shape or topographical conditions are not the issue here.*

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.

*The conditions upon which the application is based are generally not applicable to similar properties within the General Industrial District. This is a unique situation.*

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

*The purpose of the variance is somewhat based on the economic gain of the owner/applicant. The owner would like to be able to have retail sales and a restaurant. A business zoning fits better in this location than industrial because of the adjacent business uses. The property sat for quite a few years without being used likely because it has an industrial zoning classification.*

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.

*The difficulty or hardship is due to a unique historic situation where the building was allowed to be very close to the side lot line. The building is not going away, so it makes sense to try to accommodate uses that fit in that area of the community.*

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 the side yard setback and building separation variance to allow commercial type uses will benefit the neighborhood rather than having industrial uses such as warehousing. There are residential apartments near the rear of the property and single family near the front. The adjacent properties on each side are zoned Planned Business. We have not received any complaints regarding this request.*

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.*



08.01.2013 13:11





08.01.2013 13:11