

NOTICE

The **City of Stoughton** will hold a meeting of the **Board of Appeals** on **Monday, August 30, 2010** at **5:00 p.m. or as soon as this matter may be heard** in the **Fire Department Training Room, 401 E. Main Street**. Stoughton, Wisconsin. ***NOTE MEETING ROOM CHANGE**

AGENDA:

1. Call meeting to order.
2. Elect Vice-Chair and Secretary.
3. David Bartelt, owner of the following property: 116 N. Lynn Street, Stoughton, Wisconsin, Parcel #281/0511-054-6211-6, O M TURNER ADD S 66 FT LOT 1 S 66 FT LOT 2 BLOCK 3, has appealed the requirements of the City of Stoughton zoning ordinance section 78-105(2)(e)8bL, which requires a minimum side yard setback of 4 feet for accessory structures within the SR-6 - Single Family Residential District and has appealed the requirements of zoning ordinance section 78-105(2)(e)8bR, which requires a maximum accessory building height of 15 feet. The applicant requests a variance to allow the existing accessory structure to be expanded while keeping the existing 2-foot setback along the south side lot line and requests to allow a maximum accessory building height of 20 feet at 116 N. Lynn Street, Stoughton, WI.
4. Adjournment.

AW:mps
8/2/10

SENT TO:

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

cc: Mayor Donna Olson (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)	Area Neighbors
David Bartelt, 116 N. Lynn 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/Bartelt10/Barteltnotice10.doc

OFFICIAL NOTICE

Please take notice that David Bartelt, owner of the following property: 116 N. Lynn Street, Stoughton, Wisconsin, Parcel # 281/0511-054-6211-6, O M TURNER ADD S 66 FT LOT 1 S 66 FT LOT 2 BLOCK 3, has appealed the requirements of the City of Stoughton zoning ordinance section 78-105(2)(e)8bL, which requires a minimum side yard setback of 4 feet for accessory structures within the SR-6 - Single Family Residential District and has appealed the requirements of zoning code section 78-105(2)(e)8bR, which requires a maximum accessory building height of 15 feet. The applicant requests a variance to allow the existing garage to be expanded while keeping the existing 2-foot setback along the south side lot line and requests to allow a maximum accessory building height of 20 feet at 116 N. Lynn Street, Stoughton, WI.

Notice is hereby given that the Board of Appeals will conduct a hearing on this matter on August 30, 2010 at 5:00 p.m. in the Fire Department Training Room, 401 E. Main Street, Stoughton.

Board of Appeals
Al Wollenzien, Chair
AW:mps

Published: August 5, 2010 HUB

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 confer with 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.

1. 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:

Date of Meeting: 7/13/10 Time of Meeting: — Date: — By: MPS

Follow-up pre-submittal staff meetings scheduled: N/A

Date of Meeting: — Time of Meeting: — Date: — By: —

Date of Meeting: — Time of Meeting: — Date: — By: — > N/A

Application form filed with Zoning Administrator Date: 7/13 By: MPS

Application fee of \$365⁰⁰ received by Zoning Administrator Date: 7/13 By: MPS

Professional consultant costs agreement executed (if applicable): Date: — By: — N/A

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 copy to Zoning Administrator)

Date: — By: — N/A

↓ Draft Final Packet (1 copy to Zoning Administrator)

Date: 7/13 By: MPS

↓ ↓

☐ (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. N/A

☒ 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.

Current structure is 2' off lot line, would like to
build new structure using current setback.
Maximum height of structure to be no higher than 20'.

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.

I believe the new structure would not conflict
neighbors because ~~and~~ an existing structure is
in place already. Which backs up to neighbors
garage and tree line.

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.

I believe it would not because of existing structure
is in place. New structure would be a little taller.

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.

I believe it would not.

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.

Existing garage is in place, would like to take-down
old garage and build new one in place of old one.
(which) will be up to code.

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.

N.A.

IV. Final Application Packet Information for City Use.

Receipt of Final Application Packet by Zoning Administrator

Date: 7/13/10 By: MPS

Notified Neighboring Property Owners (within 300 feet)

Date: 8/5/10 By: MPS

Notified Neighboring Township Clerks (within 1,000 feet)

Date: _____ By: _____ N/A

Class 1 legal notice sent to official newspaper by Zoning Administrator Date: 7/23/10 By: MPS

Class 1 legal notice published on AUGUST 5, 2010 HUB By: MPS

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: 7-13-10

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

AccessDane

geographic and land information

Public Agency Access System

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

Wednesday, August 4, 2010

Parcel information updated on Wednesday, August 04, 2010 unless otherwise noted.

Parcel Number - 281/0511-081-0215-1[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	08
Quarter	NE
Quarter-Quarter	NE
Plat Name	O. M. TURNER'S, PARK ADDITION
Lot/Outlot/Unit	LOT 5
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	MICHAEL WERNER
Property Address	116 S LYNN ST
City State Zip	STOUGHTON, WI 53589
Country	USA
Owner Status	CURRENT CO-OWNER
Name	DIANE WERNER
Property Address	116 S LYNN ST
City State Zip	STOUGHTON, WI 53589
Country	USA

Parcel Address

Primary Address  116 S LYNN ST

Billing Address

Attention	
Street	116 S LYNN ST
City State Zip	STOUGHTON, WI 53589
Country	USA

Assessment Information

Assessment Year	2010	2009
Valuation Classification	G1	G1
Assessment Acres	0.2	0.2
Land Value	\$34,800.00	\$34,800.00
Improved Value	\$179,600.00	\$176,900.00
Total Value	\$214,400.00	\$211,700.00
Valuation Date	03/24/2010	04/22/2009

[About Annual Assessments](#)

Tax Information

2009 Tax Values

Category	Assessed Value	Average Assessment Ratio	Estimated Fair Market Value
Land	\$34,800.00 /	0.9808	\$35,482.00
Improvement	\$176,900.00 /	0.9808	\$180,363.00
Total	\$211,700.00 /	0.9808	\$215,845.00

2009 Taxes:	\$3,981.06
2009 Lottery Credit(-):	\$70.44
2009 First Dollar Credit(-):	\$61.74
2009 Specials(+):	\$150.72
2009 Amount:	\$3,999.60

[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

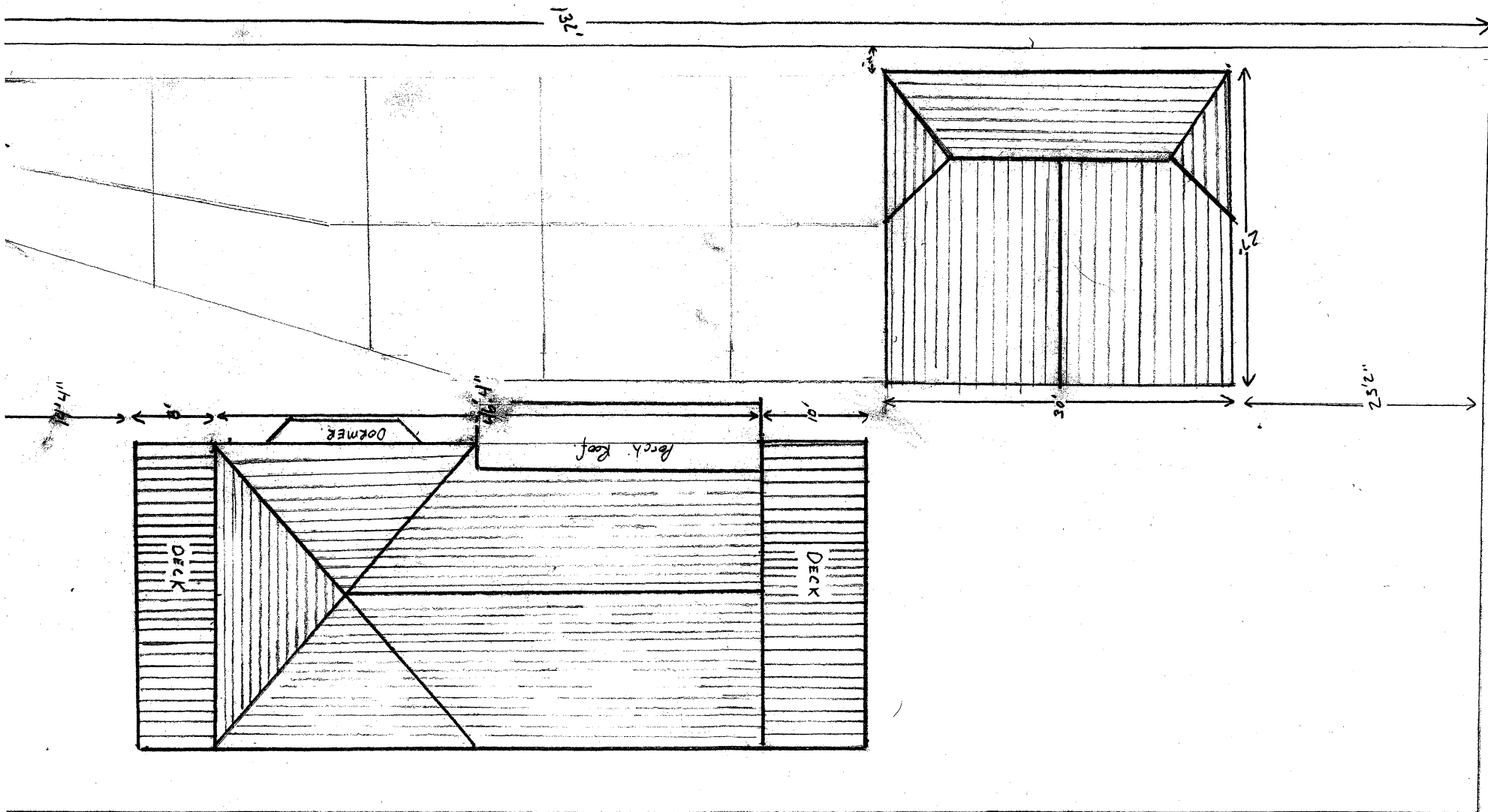
For a complete legal description, see the recorded documents
TURNER PARK ADD LOT 5 BLOCK 2

Recorded Documents

Doc.Type	Date Recorded	Doc. Number	Volume	Page
WD	05/16/2006	4191935		

[Document Types and their Abbreviations](#)[Document Types and their Definitions](#)

- For questions on property and assessment information, contact [Real Property Listing](#)
- For questions on zoning information, contact the [Division of Zoning](#)

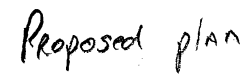


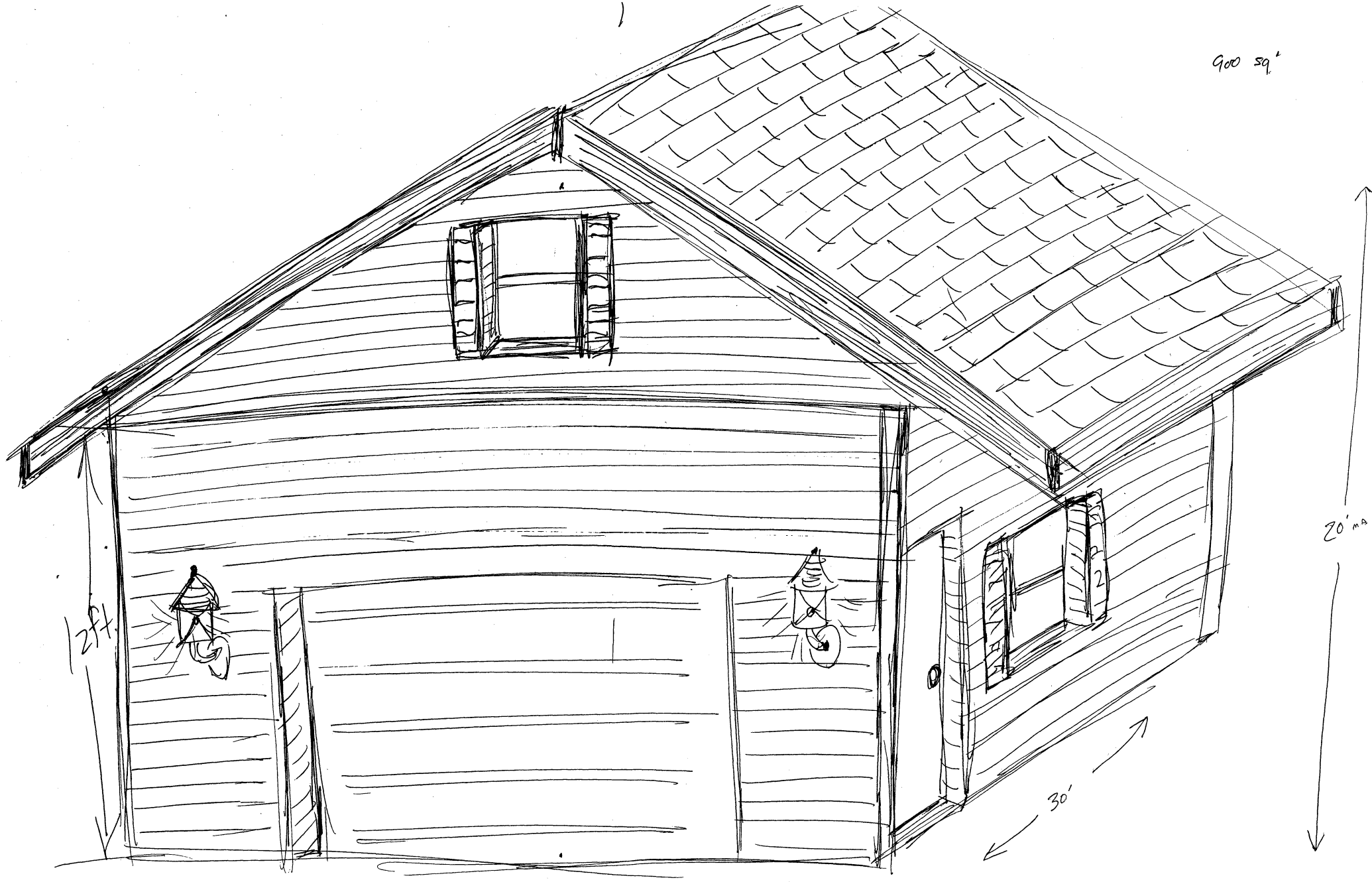
Scale. 1/4" per foot.

DAVE BARTELT

111 N. 1st St

original plan



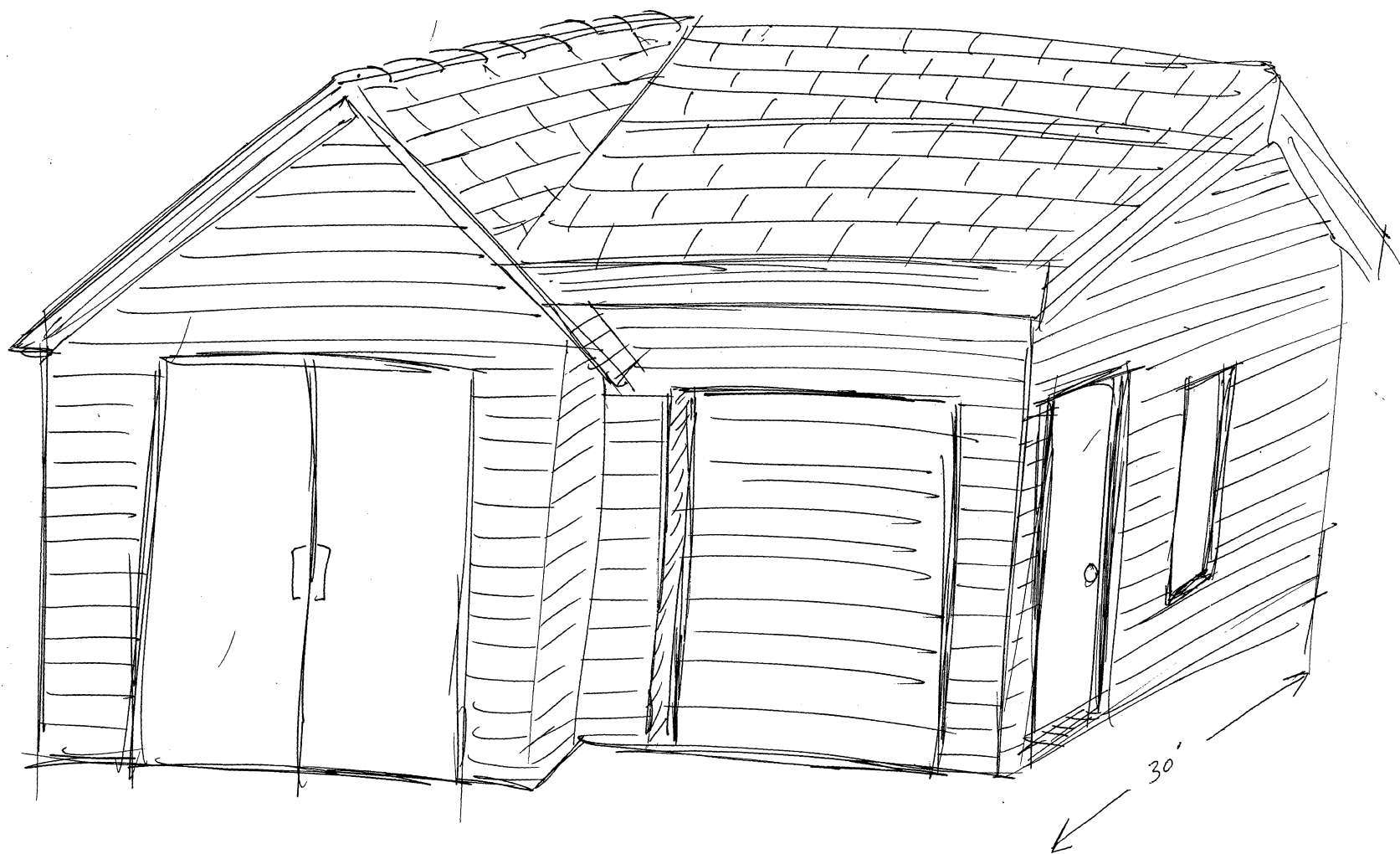


900 sq.

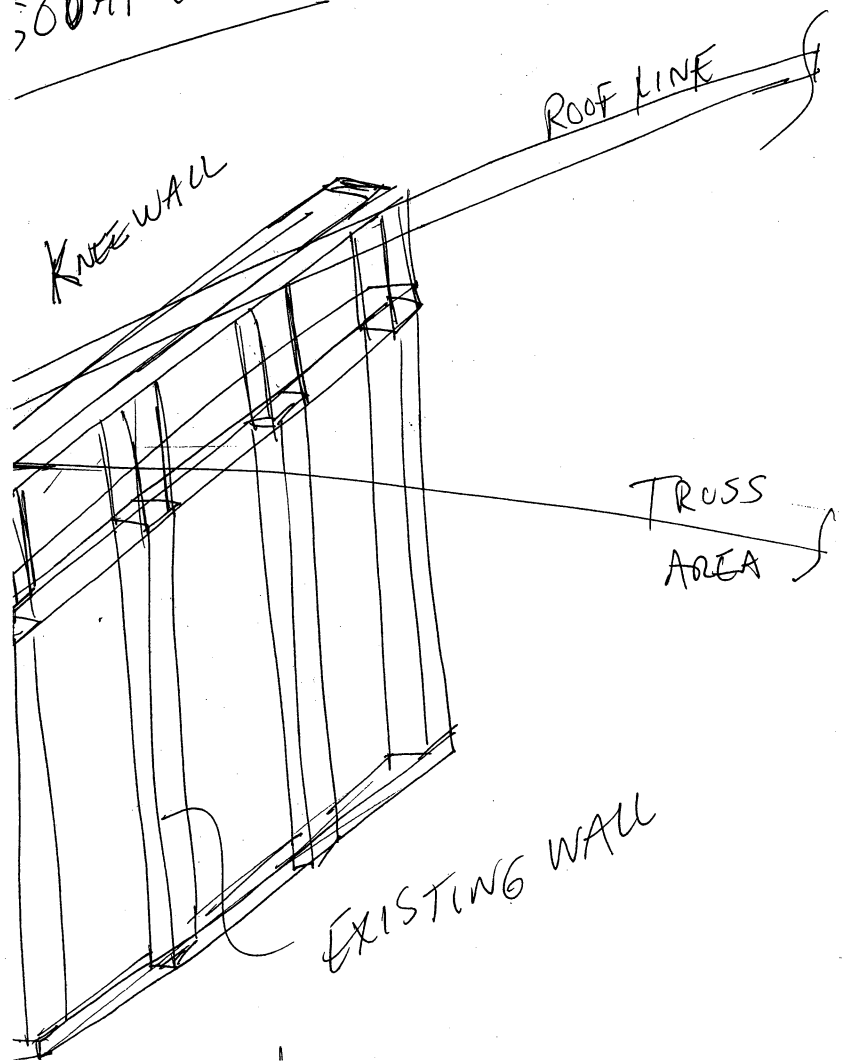
12ft

30ft

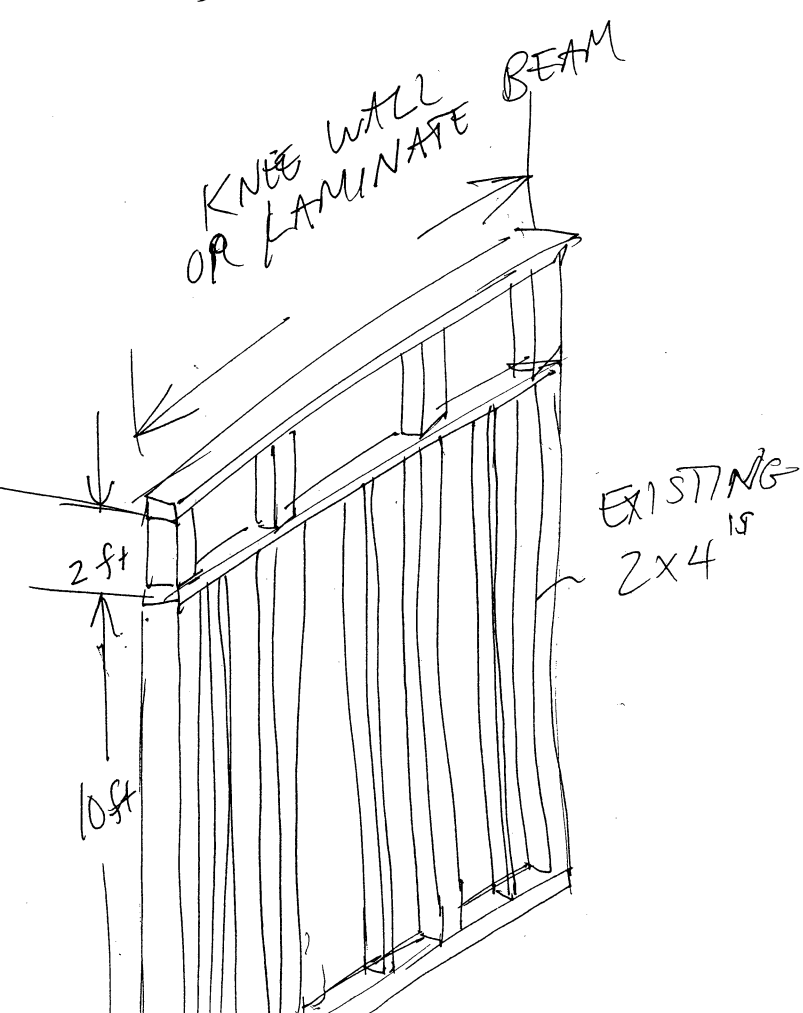
20ft



SOUTH WALL



NORTH WALL



DEPARTMENT OF PLANNING & DEVELOPMENT REVIEW

Name and Address of Applicant: David Bartelt
116 N. Lynn Street
Stoughton, WI. 53589

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

Zoning ordinance section 78-105(2)(e)8bL, which requires a minimum side yard setback for an accessory structure of 4 feet and zoning code section 78-105(2)(e)8bR, which requires a maximum accessory building height of 15 feet. These sections are related to the requirements for accessory structures within the SR-6 - Single Family Residential District.

Summary of Request

The applicant is requesting to expand an existing legal non-conforming accessory structure. The structure is legal non-conforming because it is setback 2 feet from the south side lot line while the zoning ordinance requires a 4-foot side yard setback. The applicant is requesting to expand the height of the existing south wall and increase the maximum height of the accessory structure to 20 feet while the zoning ordinance allows a maximum height of 15 feet.

DATE OF APPLICATION: July 13, 2010
DATE PUBLISHED: August 5, 2010
DATE NOTICES MAILED: August 16, 2010
DATE OF HEARING: August 30, 2010

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 116 S. Lynn Street is larger than the minimum lot size (4,000 sq. ft.) for the SR-6 Single Family Residential district. The subject property has an area of 8,712 sq. ft. There does not appear to be any particular physical or topographical condition that would result in a hardship for the applicant/owner.

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 applicable to similar properties within the SR-6 - Single Family Residential district. There are similar accessory structures within the City of Stoughton in the same zoning classification.

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. Though it would be more cost effective for the applicant to build in the existing location; the owner would also gain by keeping the garage in the existing location. In actuality, the garage could be rebuilt in compliance 4 feet from the lot line with a maximum building height of 15 feet. Note: The maximum building height is actually the average height of the tallest gable on a pitched or hip roof.

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 many years. The assumption is, at one time the garage was allowed to be built 2 feet from the property line. The zoning ordinance requires that any expansion must not make the structure more non-conforming.

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 has the potential to harm the public interest. Each variance is to be evaluated on its own merit; however, approving this variance may set precedence for future similar requests.

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. There should not be a significant impact to adjacent properties.



6

E0557568

E096206



