

# **OFFICIAL MEETING NOTICE & AGENDA**

The City of Stoughton will hold a meeting of the **Board of Appeals** on **Monday, January 13, 2014** 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. Elect Vice-Chair
3. Consider approval of the Board of Appeals minutes of August 26, 2013 and September 23, 2013.
4. Jeff & Ronna Nyman, owners of the property at 420 S. Page Street, Stoughton, Wisconsin, have requested a variance from zoning code section, 78-105(2)(e)8bJ, "Rear lot line to house: 20 feet." This request is to allow the property to be rezoned from NB – Neighborhood Business to SR6 – Single Family Residential.

5. Adjournment.

1/7/14mps

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

Russ Horton, Chair

David Erdman, Secretary

Bob McGeever

Robert Busch

Gilbert Lee

Bob Barnett, Alternate 2

Aaron Thomson, Alternate 1

cc: Mayor Donna Olson (Packet)

City Clerk Pili Hougan (via-email)

Receptionists (via-email)

Zoning Administrator Michael Stacey (2 packets)

Stoughton Newspapers (via-fax)

derickson@madison.com

Department Heads (via-email)

Council Members (via-email)

Steve Kittelson (via-email)

City Attorney Matt Dregne (Packet)

Derek Westby (via-email)

Jeff & Ronna Nyman (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 26, 2013 5:00 p.m.**

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

**Members Present:** Russ Horton, Chair; David Erdman, Secretary; Robert Busch; Robert Barnett; and Bob McGeever.

**Members Absent and Excused:** Gilbert Lee and Al Wollenzien

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

**Guests:** Ben DiSalvo

- 1. Call meeting to order.** Horton called the meeting to order at 5:00 pm.
- 2. Consider approval of the August 19 22, 2013 minutes.** Motion by **Barnett** to approve the August 19, 2013 Board of Appeals minutes as presented, 2<sup>nd</sup> by **Busch**. Motion carried 5 – 0.
- 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.**

Horton introduced the request and opened the public hearing.

Ben DiSalvo explained the intent of the request and answered various clarifying questions from the board.

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?*

We believe, in this case, the applicant is creating a better situation by rezoning the property to a more compatible classification for the neighborhood. Being zoned General Industrial allows uses such as: Light Industrial, indoor maintenance services, indoor storage and wholesaling while vehicle repair, outdoor storage, freight terminals and distribution centers are allowed as a conditional use. Changing the zoning classification to Planned Business will allow uses such as: Offices, indoor sales, and personal & professional services while indoor commercial entertainment and in-vehicle sales are

allowed as conditional uses. We are not sure why the buildings were allowed to be that close to the side lot lines and too close to the adjacent building.

**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 uniqueness primarily relates to an industrial zoned property in a residential and commercial area. The lot is mostly flat and rectangular in shape. No wetlands onsite.

**C. Protection of Public Interest.**

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

Allowing commercial uses rather than industrial uses makes much more sense for this neighborhood with residential at the rear of the property and across the street.

*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?* No other alternatives.

**Recommendations:**

We recommend approval of the variance contingent on the rezoning being approved.

The board asked Michael Stacey various clarifying questions; it was noted that the building on the south side of this lot was actually built on the lot line, which then at some point necessitated a division creating a second small lot to adequately address the location of the subject building.

Horton closed the public hearing.

Motion by **McGeever** to approve the variance request, 2<sup>nd</sup> by **Barnett**. Motion carried 5 – 0.

**4. Adjournment.** Motion by **Erdman** to adjourn at 5:14 pm, 2nd by **Barnett**. Motion carried 5 - 0

Respectfully Submitted,  
Michael Stacey

## **Board of Appeals Meeting Minutes**

**Monday, September 23, 2013 5:00 p.m.**

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

**Members Present:** Russ Horton, Chair; Al Wollenzien, Vice-Chair; David Erdman, Secretary; Robert Busch; and Bob McGeever, Alt. #1.

**Members Absent and Excused:** Robert Barnett, Alt. #2 and Gilbert Lee

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

**Guests:** Cal & Rae Heiser; John O'Connor; Marty & Karen Vaage; Andrew Kaiser; and David Kneebone.

1. **Call meeting to order.** Horton called the meeting to order at 5:00 pm.
2. **Consider approval of the August 26 22, 2013 minutes.** Motion by **Erdman** to Table the August 26, 2013 Board of Appeals minutes, 2<sup>nd</sup> by **Wollenzien**. Motion carried 5 – 0.
3. **Cal & Rae Heiser, owners of the property at 1608 Moline Street, Stoughton, Wisconsin, have requested a variance from zoning code section, 78-105(2)(f)7bH, “Rear lot line to house or attached garage: 30 feet.” This request is to allow the property/duplex to be split by zero-lot line.**

Horton introduced the request and opened the public hearing.

John O'Connor represented the owners and explained the request.

There were no questions for Mr. O'Connor.

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 zoning ordinance does not provide flexibility in this case. The structure does meet the setback requirements as a whole but not when split for a zero-lot-line. It is not fair to allow most other duplex structures to be zero-lot-lined but not this one. The use will always remain the same and no one can tell the difference once zero-lot-lined.

### **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 uniqueness primarily relates to the setback requirements for a zero-lot-line structure. The shape, slope and size of the lot is not necessary all that unique.

### **C. Protection of Public Interest.**

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

The positive impact could be viewed as allowing two potential affordable home opportunities for families.

*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?* The property could be a condominium however, there is a significant hardship currently because of the condo market and the ability to acquire a loan for a condo has not been easy.

Horton closed the public hearing.

Motion by **Erdman** to approve the variance request as presented, 2<sup>nd</sup> by **Busch**. Board members discussed their reasoning to approve or disapprove of the request. Among the reasons provided were zero lot line considerations in recent ordinance changes and precedent of variances previously granted for a similar situation. Motion carried 5-0.

4. **Marty & Karen Vaage, owners of the property at 145 Forton Street, Stoughton, Wisconsin, have requested a variance from zoning code sections, 78-105(2)(e)8bF, "Side lot line to house: Minimum six feet."; 78-105(2)(e)8bJ, "Rear lot line to house: Minimum 20 feet."; and 78-405(4)(b)1, "Permitted intrusions into required rear or side yards: Sills, pilasters, lintels, ornamental features, cornices, eaves, and gutters for residential buildings; provided they do not extend more than two and one-half feet into the required yard." This request is to allow a carport that was built in non-compliance to remain.**

Horton introduced the request and opened the public hearing.

Marty & Karen Vaage explained their request.

The Board questioned the applicants and City staff.

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?*

We believe, in this case, the ordinance does not unreasonably prevent use of the property and the standards are not unnecessarily burdensome. The applicant created the hardship in the case. In fact, the ordinances were amended in 2009 to provide more flexibility for historic properties such as this one.

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.* We do believe the size and slope of the property did likely contribute to the errors for some of the non-conformities, not all of the non-conformities. The errors could happen on any similar property. Anyone could make the same claim for an after-the-fact variance.

C. Protection of Public Interest.

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

The applicants have updated a home that was previously in poor condition.

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

There is the potential for setting precedence if the variances are approved. 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?* Alter the structure in compliance with the code.

The Board questioned the Vaage's and City staff with respect to the materials provided at the time the City issued the permit for this project, the size of the constructed carport, and the timing of the three certified surveys completed for this lot.

David Kneebone, 201 Brickson Street spoke in favor of the variance request and answered questions from the Board.

Horton closed the public hearing.

Motion by Erdman to approve the variance request as presented, 2<sup>nd</sup> by McGeever. Board members discussed their reasoning to approve or disapprove of the request. Among the reasons provided were small lot size and topography of the southern portion of the lot. Motion carried 4 – 1 (McGeever, Erdman, Busch and Wollenzien voted yes; Horton voted no).

- 5. Andrew Kaiser, owner of the property at 401 N. Page Street, Stoughton, Wisconsin, has requested a variance from zoning code section, 78-105(2)(e)8bD, "Front or street side lot line to house: Minimum 20 feet to house; 12 feet to porch; maximum 25 feet to house; 15 feet to porch." This request is to allow a deck addition.**

Horton introduced the request and opened the public hearing.

Andrew Kaiser respectfully declined his request stating he now plans to replace the existing stairs and to sell the home.

Horton closed the public hearing and the Board took no action on this request.

**6. Adjournment.** Motion by **McGeever** to adjourn at 6:05 pm, 2nd by **Erdman**. Motion carried 5 - 0

Respectfully Submitted,  
Michael Stacey

## OFFICIAL NOTICE

Please take notice that Jeff & Ronna Nyman, owner of the property at 420 S. Page Street, Stoughton, Wisconsin, have requested a variance from zoning code section, 78-105(2)(e)8bJ, "Rear lot line to house: 20 feet."

The property at 420 S. Page Street is formally described as follows:

Parcel number: 281/0511-082-0487-2, with a legal description of: ORIGINAL PLAT BLOCK 7 LOTS 7 & 8

The applicants are requesting a variance to allow rezoning of the property from NB – Neighborhood Business to SR6 – Single Family Residential. The current rear lot line setback to the house is less than the required 20-foot setback.

Notice is hereby given that the Board of Appeals will conduct a hearing on this matter on January 13, 2014 at 5:00 p.m., or as soon after as the matter may be heard 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: January 2, 2014 HUB



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

Follow-up pre-submittal staff meetings scheduled:

Date of Meeting: 12/23/13 Time of Meeting: 2:15 Date:        By: MS

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: 12/23 By: MS

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 copy to Zoning Administrator)

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

↓ Draft Final Packet (1 copy to Zoning Administrator)

Date: 12/23/13 By: MS

↓

☒ (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.

Property has been used commercially, historically, like  
all planning is people it is residential. This district  
is residential which makes this property unique in  
the district. While zoning business the property  
was held to different standards.

#### 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.

Existing DEVELOPMENT

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.

*No. The buildings are already in existence.*

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.

*No. The buildings are already in existence  
and will not result in undue adverse  
impact on the neighborhood.*

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.

*No.*

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.

*No.*

**IV. Final Application Packet Information for City Use.**

Receipt of Final Application Packet by Zoning Administrator

Date: 12/23 By: mps

Notified Neighboring Property Owners (within 300 feet)

Date: 1/2/14 By: mps

Notified Neighboring Township Clerks (within 1,000 feet)

N/A Date: \_\_\_\_\_ By: \_\_\_\_\_

Class 1 legal notice sent to official newspaper by Zoning Administrator Date: 12/23 By: mps

Class 1 legal notice published on 1/2/14

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)



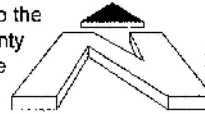
Date: 12/23/13

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

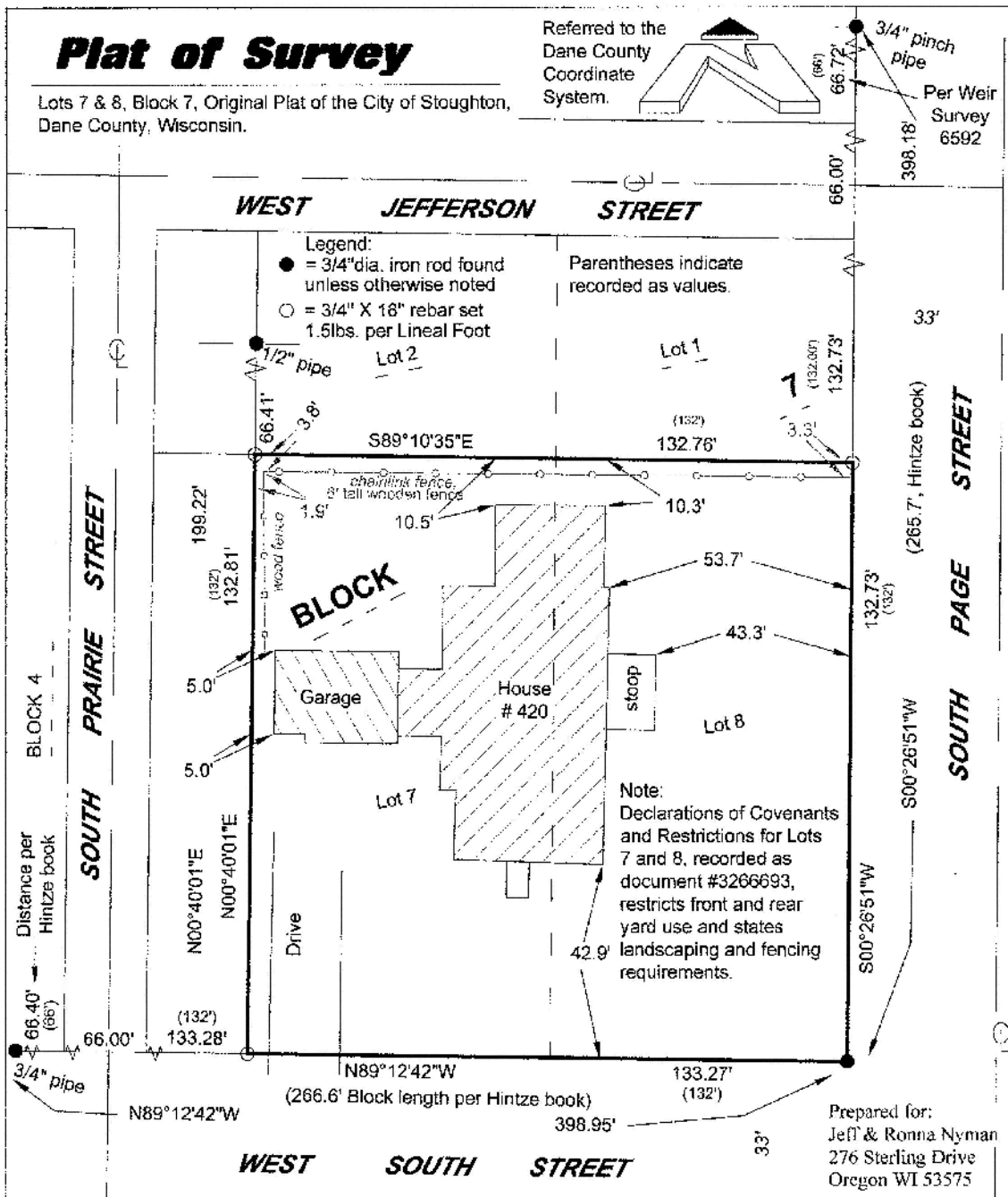
Questions? Call the Zoning Administrator at 608-646-0421

Lots 7 & 8, Block 7, Original Plat of the City of Stoughton,  
Dane County, Wisconsin.

Referred to the  
Dane County  
Coordinate  
System.



3/4" pinch  
pipe  
Per Weir  
Survey  
6592



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.

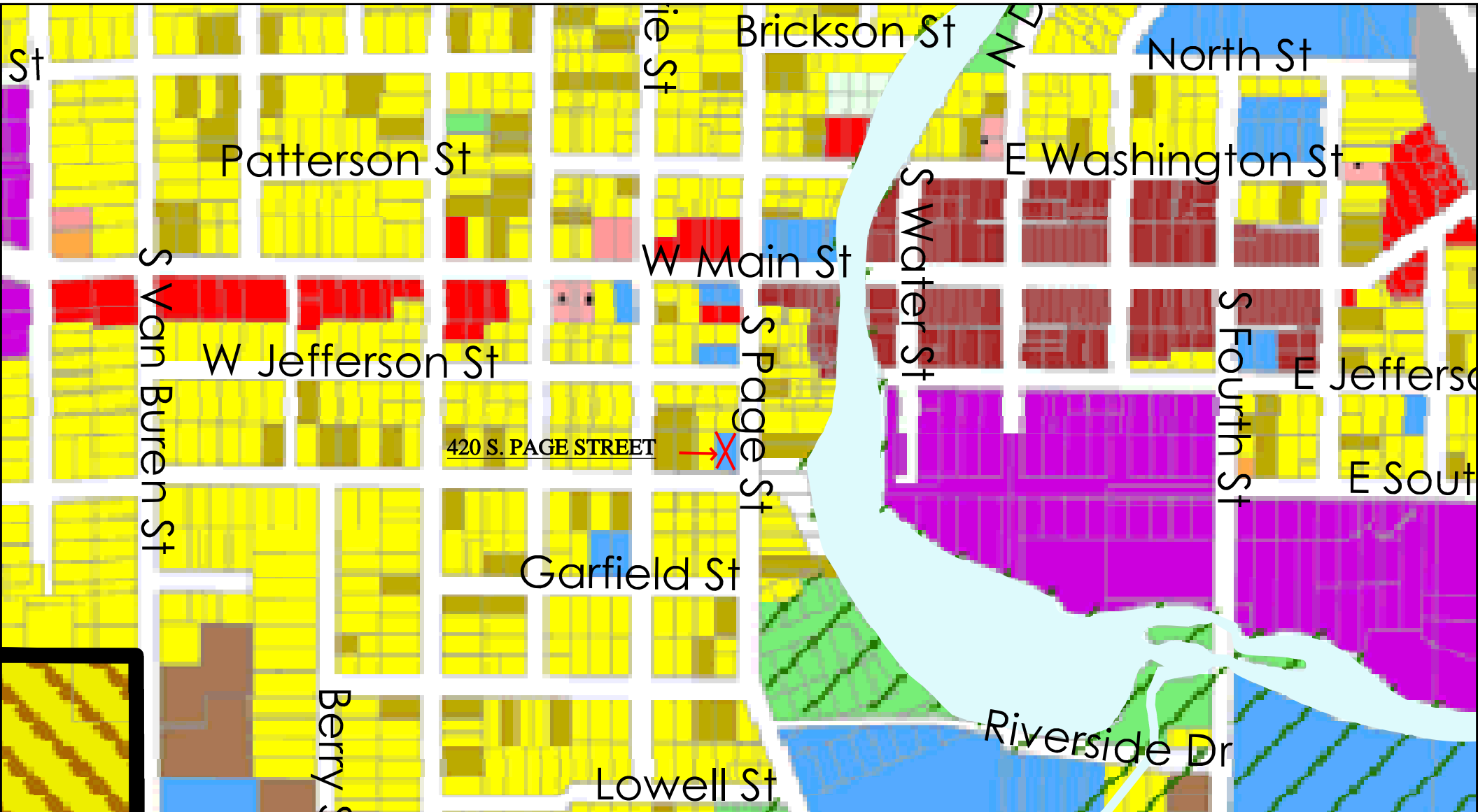
David C. Riesop S-1551

**Wisconsin Mapping, LLC**

*surveying and mapping services*  
306 West Quarry Street, Deerfield, Wisconsin 53531  
(608) 764-5602

Dwg. No. 4432-13 Date 12/30/2013  
Sheet 1 of 1

COMPREHENSIVE PLAN PLANNED LAND USE MAP





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

Name and Address of Applicant: Jeff & Ronna Nyman  
276 Sterling Drive  
Oregon, WI. 53575

\*The address for the variance request is 420 S. Page Street, Stoughton.

THE FOLLOWING IS THE SPECIFIC ZONING ORDINANCE SECTION(S) THE APPLICANTS ARE REQUESTING RELIEF FROM:  
SR6 district requirements: 78-105(2)(e)8bJ, "Rear lot line to house: Minimum 20 feet."

### **Summary of Request**

*The applicant/owner is requesting a variance from the SR6 – Single Family Residential, rear yard setback requirement to allow the property to be rezoned from NB – Neighborhood Business to SR6 – Single Family Residential. The current rear setback at 420 S. Page Street is 5 feet compared to the 20-foot requirement. The property could be used for single family residential as zoned however banks require a residential zoning classification in order to approve a loan.*

DATE OF APPLICATION: December 23, 2013

DATE PUBLISHED: January 2, 2014

DATE NOTICES MAILED: January 3, 2014

DATE OF HEARING: January 13, 2014

### **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 420 S. Page Street is currently zoned NB – Neighborhood Business. The particular shape, surroundings or topographical conditions are not the issue here. Rather, it is the location of the structure compared to the required rear setback. The home does not meet the rear yard setback of the current Neighborhood Business district. The property is proposed to be rezoned back to a residential zoning classification so the property can be used as was originally intended.*



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 a neighborhood business district. This property was originally built to be used as a single family home then transformed into a funeral parlor, nursery home and daycare, respectfully. It makes logical sense to allow a residential zoning classification rather than a business classification. This is a unique situation specific to this property.*

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 based on the desire of the applicants to restore the property to a residential use and due to bank financing requirements. We are unaware of any desire to acquire a variance for future economic gain.*

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 caused by changes to the zoning setback requirements over time and because of changes in the banking industry.*

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 variance will be beneficial to the neighborhood.*

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.*