

Building Services

W240N3065 Pewaukee Road
Pewaukee, WI 53072
(262) 691-9107 Fax (262) 691-6039

~ **Virtual Meeting Only ~ See Notice Below ~**

ZONING BOARD OF APPEALS MEETING NOTICE AND AGENDA

Tuesday, March 30, 2021

6:00 PM

~ Virtual Meeting Only ~

City of Pewaukee ~ W240N3065 Pewaukee Road ~ Pewaukee, Wisconsin 53072

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1. Call to Order and Pledge of Allegiance
 2. Discussion and possible action to approve the Zoning Board of Appeals minutes dated December 1, 2020
 3. Discussion and possible action to approve the Zoning Board of Appeals minutes dated December 14, 2020
 4. **PUBLIC HEARING**, discussion and possible action regarding the request of Craig Caliendo, Kings Way Homes, for the property located at W249N2191 Fox Creek Court (PWC 0950033) for a variance from Section 17.0408f.(4) and 17.0436c.(5) to allow for a rear yard setback of 39.50-feet from the north property line, opposed to the required minimum 75-foot setback from a navigable stream.
 5. Discussion and possible action to determine when the Zoning Board of Appeals will start holding live meetings again versus virtual meetings
 6. Adjournment

Kelly Tarczewski
Clerk/Treasurer

March 25, 2021

NOTICE

Due to the COVID virus, this meeting will only be held virtually.

To attend this meeting virtually or by phone please contact Kelly Tarczewski, City Clerk, 262-691-0770, tarczewski@pewaukee.wi.us **before 3 P.M. on the date of the meeting** for directions. Meeting materials are available at <https://pewaukee.novusagenda.com/AgendaPublic/>.

It is possible that members of other governmental bodies of the municipality may be in attendance to gather information that may form a quorum. At the above stated meeting, no action will be taken by any governmental body other than the governmental body specifically referred to above in this notice.

Any person who has a qualifying disability under the Americans with Disabilities Act that requires the meeting or materials at the meeting to be in an accessible format must contact the Clerk/Treasurer, Kelly Tarczewski, at (262) 691-0770 three business days prior to the meeting so that arrangements may be made to accommodate your request.

**CITY OF PEWAUKEE
ZONING BOARD OF APPEALS AGENDA ITEM 2.**

DATE: March 30, 2021

DEPARTMENT: Zoning Appeal

PROVIDED BY:

SUBJECT:

Discussion and possible action to approve the Zoning Board of Appeals minutes dated December 1, 2020

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

ZBA Minutes 12/01/2020

In attendance:

R. Welcenbach, T. Matt, J. Tredwell and K. Marlin.

Also Present:

City Planner & Community Development Director N. Fuchs and Clerk/Treasurer K. Tarczewski.

1. Call to Order and Pledge of Allegiance

Ms. Marlin called the meeting to order at 6:02 p.m.

Due to the absence of an American Flag, the Pledge of Allegiance was bypassed.

2. Discussion and possible action to approve the Zoning Board of Appeals meeting minutes dated August 18, 2020

A motion was made and seconded (J. Tredwell, R. Welcenbach) to approve the meeting minutes dated August 18, 2020. Motion Passed: 4-For, 0-Against.

3. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Petition of Daryl Bullerjahn for the Property Located at N29 W27364 Peninsula Drive (PWC 0933-042) for a Variance from Section 17.0411a to allow a Front/Street Yard Setback Ranging from 21.6 Feet to 8.9 Feet, Opposed to the Required Minimum Average Front/Street Yard Setback of 20-Feet and From Section 17.0411b to allow an East Side Yard Setback of 3.8 Feet and a West Side Yard Setback of 5.0 Feet, Opposed to the Rs-7 District Minimum Side Yard Setback of 8-Feet for 2-Story Structures. Section 17.0436d to allow for a total combined lot coverage of approximately 31% and Section 17.0435f and 17.0436c. (5) to allow a building/structure to be located within 75-feet of the floodplain boundary.

Mr. Fuchs stated this item was previously tabled. He further stated the applicants pulled the deck out of the flood plain so there is no direct encroachment. The house was shifted slightly, and they want to build a two-story home with a first floor living area of 1,059 square feet and a two-car attached garage.

Mr. Fuchs referenced a map in the packet that shows the buildable area if all the required setbacks were applied, which was a little over 700 square feet which would not meet the minimum 900 square foot requirement. Staff felt that a variance to construct a reasonably sized home was appropriate. Mr. Fuchs suggested the Board review the details of the home with what was being proposed and review it to the standards of the zoning code.

Ms. Marlin questioned if the deck was no longer being built in the flood plain. Mr. Fuchs confirmed that was correct and the deck goes right up to the flood plain.

Mr. Fuchs further stated staff was recommending the lot coverage requirement be met. There is a section that allows mitigation. They could have a combined lot coverage up to 35 percent. If provided mitigation it would have to be reviewed by the Engineering Department and approved by the Plan Commission. They would have two options to reduce the impervious coverage.

Ms. Marlin questioned that they could increase to 35 percent from 23 percent with mitigation. Mr. Fuchs clarified that they could go to 30 percent or with mitigation 35 percent. Currently, they are at 31 percent, so they could either trim that down to meet the standard or mitigate.

Mr. Fuchs stated a letter was received from a neighbor with some concerns regarding the proposed home. Ms. Marlin confirmed there were two letters received, one in the packet and one received that afternoon.

Mr. Welcenbach noted in the submission that some rooms were eliminated. Mr. Welcenbach questioned if the house size was reduced or if rooms were in fact removed.

Mr. Bullerjahn stated they downsized the floor plan compared to what they originally had and shifted it on the property from the original layout. On the east side, it would not be 3.8 foot off the property line, and instead would be 5.7 foot. According to the exhibit on page 15, the 3.8-foot dimension is from a porch step that has been eliminated.

Mr. Fuchs concurred that conversation did happen, and if the Board did approve it, that it would be checked against the building permit once submitted. Ms. Marlin asked for confirmation that the minimum side yard setback was for a one-story. Mr. Fuchs stated the minimum side yard setback was five feet for a one-story building.

Mr. Bullerjahn stated the exhibit on page 15 is a survey showing the proposed house on the property. He noted the property is somewhat pie-shaped, which makes it more difficult to build, and measurements differ on each side. The west side is roughly 163 feet and the east side is about 128 feet, which is about a 35-foot difference. Mr. Bullerjahn stated the setback they were looking for from the property line itself was greatly affected by the circumference of the cul-de-sac. On the west side, meeting the 20-foot setback would be very easy to do but when you move to the east side, it becomes much harder to meet. Mr. Bullerjahn stated he submitted a picture that is located on page 17 of what was emailed out. On the arch of the cul-de-sac, part of the road does not go all the way up to the property line. Mr. Bullerjahn indicated there are three markers; one where the road is, the middle one where the property is, and the furthest one where the back corner of the house would be. Mr. Bullerjahn stated the nine feet he was asking for was from the back corner of the house to the property line. The measurement between the back of the house and where the road is, was over 20 feet.

Ms. Marlin confirmed that the depicted cul-de-sac was not paved that way. Mr. Bullerjahn agreed and showed on the GSI map that the cul-de-sac should be a 40-foot measurement from the center of the road out to that circumference. Mr. Bullerjahn stated this shows in all the cases of the houses on the cul-de-sac that the road does not actually go to the properties. Mr. Bullerjahn indicated the road was just redone with those same exact dimensions that they are showing on the GSI map and did not expand it to the properties. Mr. Bullerjahn stated the City put water into Peninsula Drive as of October 2020 and part of that project was redoing the road.

Ms. Marlin questioned the measurement for the west side setback. Mr. Bullerjahn stated the survey on page 15 showed it as 21.6 feet, which is a dimension from the west side corner of the garage to the arch of the cul-de-sac. The actual road is bordering on 28-feet.

Carolyn Krech (N29 W27374 Peninsula Drive) noted the minimum first floor requirement was 900 square feet, and the proposed home was a little over 1500 square feet. Mr. Fuchs confirmed that was correct. Ms. Krech stated last meeting Mr. Bullerjahn took the chimney out of the home plan. She stated it was still in this proposal, so she questioned Mr. Bullerjahn's intent of a fireplace. Mr. Bullerjahn stated they were potentially looking at having a fireplace that was not wood burning but gas in what would be the living room of the house. He further stated they have made no determination if they were going to do that and there would not be a chimney.

Ms. Marlin stated the chimney would need to fit within whatever the setback is if this variance were approved, because it would be a part of the permanent structure.

Ms. Krech had numerous concerns with having a 35-foot-high structure, over 50-foot wall, which extends over 20 feet past her house towards the lake. She stated one concern would be flooding. Ms. Krech mentioned her three-foot crawl space already floods on numerous occasions with heavy rains. The current home on The Bullerjahn's lot is 29-feet away and there is significant gravel and green space between, but there are already flooding issues. Ms. Krech felt flooding would significantly increase with the proposed home being five feet from the lot line, as a one-foot overhang brings concern that the heavy rain falls would fall onto her roof and then directly down or between the lots. Only having a small distance between the homes, having adequate plant life to mitigate that would not be enough. Natural light would be lost because of the height and proximity. Ms. Krech stated another concern would be a loss of privacy, the house would significantly diminish part of her view, which would lower the value of her property. She stated people typically buy lake homes for the view. Ms. Krech was concerned about fire risk and the ability of emergency vehicles getting around the home. She stated if the house could get shifted further east, it would mitigate the potential problems.

Ms. Bullerjahn doubted fire trucks could not get in between the houses anywhere on Peninsula Drive. The assumption has always been that the rescue or Fire Department vehicle would remain on the road and then be dispatched towards the building. The idea of having to bring water from the lake to the fire truck is no longer an issue, since there will be fire hydrants on the road.

Mr. Bullerjahn stated a fire hydrant has been put on the cul-de-sac. Ms. Krech stated she was not just referencing emergency vehicles, but any type of construction vehicles or dumpers, as her other neighbor was redoing their boat house and they requested to go through her yard.

Mr. Bullerjahn stated he would have had his other neighbor, The Bartnicki's call in, but they were not aware of the zoom meeting. Mr. Fuchs stated the notice was mailed and City Hall is open. If they wanted to attend, they should have contacted the City for the meeting information. Mr. Bullerjahn could have shared the information.

Ms. Marlin reminded everyone of the test that the applicant needs to show us three things; an unnecessary hardship, the hardship conditions are unique to the property, and approving the variance would cause no harm to public interest.

Ms. Marlin agreed that the shape of the property was an unusual hardship. She stated if all the parameters were followed for a 715-foot building, it would not allow the owners to use the property as it was intended. Ms. Marlin felt shape was an issue, as the footprint does not allow property to be used as intended.

Mr. Welcenbach stated it seems a variance is needed but it is about what is reasonable or necessary. He felt there was lot of information in the application about it being a multi-generational home, but that did not change what would be appropriate.

Ms. Marlin agreed that multi-generational was not an unnecessary or unique hardship. Ms. Marlin was not as concerned with the setback from the driveway, given the strange circumstance with the cul-de-sac. She did have a concern with the side yard setbacks and knowing that potentially increasing the side yard setback would not eliminate the ability to use the property as it was intended.

Mr. Welcenbach felt if they met the code, they would have an eight-foot setback on each side. Ms. Marlin confirmed that eight feet was what was required for a two-story structure. Mr. Welcenbach stated it would be going from eight-feet to five-feet on one side. Ms. Marlin added it is from eight feet to five feet seven inches on the east side.

Mr. Tredwell stated if you look at the approximate locations on either side, they are apparently well within those setbacks. Ms. Marlin stated those might have been non-conforming prior to the code. Ms. Marlin felt using that as a theory was the best theory. The purpose of the code is to not crowd the houses, so if they were built before that or built illegally, we would not want to continue that.

Mr. Matt saw the hardship between the issue of the floodplain setback and the street setback. Mr. Matt did not see the hardship with either side yard variance. Ms. Marlin reiterated that the floodplain was no longer an issue. Mr. Fuchs stated they still need a setback as the deck was previously in the floodplain itself.

Mr. Tredwell questioned the floodplain setback and Mr. Fuchs noted the floodplain setback was 75 feet, which could be reduced with setback averaging by looking at adjacent structures. It cannot be reduced to less than 35-feet without a variance. Mr. Tredwell questioned if the averaging with the neighbors had been done on the floodplain setback. Mr. Fuchs stated they are right at the 35-feet that they were proposing with the deck, so they are going right up to it.

Mr. Welcenbach questioned if it was up to the homeowner where to discharge their downspouts. Mr. Fuchs stated a lot of the older areas and neighborhoods do have flooding issues. They would not be allowed to have a sump pump directed at a neighbor. Mr. Fuchs stated a drainage plan would be reviewed to make sure it was working with the existing grade.

Mr. Bullerjahn wanted to make a comment on the drainage issue. Ms. Marlin stated the meeting was closed to the public.

Ms. Marlin stated that of the four items, she was not as concerned with the front street yard setback or the floodplain. She did have concerns with the side yards because she felt the variance was not needed to use the property as it was intended. She stated because of the irregular shape of the lot and the unique circumstances, there was room for some leeway to the north and south. She stated the west was more concerning because it was a straight line all the way through. The east property line had some gaps.

Mr. Tredwell stated he did an overlay between the existing property and the proposed home. He stated the existing home looks as though it is tight on the property line. He asked for confirmation that under law you could rebuild an existing structure where it sits. Mr. Fuchs agreed. Mr. Tredwell questioned if they could go eight feet off the west side and build off the existing setback on the east side. Mr. Fuchs stated no, it would have to be off the existing footprint.

Ms. Marlin stated where the house was currently located was not problematic for things like getting in between the properties or drainage. With that in mind, she would have an easier time approving a variance on the east side, because that is where the building already sits. Ms. Marlin stated whether a neighbor is for or against it is not necessarily a factor. Mr. Fuchs noted the home on the east side is 1.6 feet off, so the whole shift would change by reducing that.

Ms. Marlin questioned if the current building sat closer than 5.7 feet. Mr. Fuchs stated the existing building was 2.5 feet from the corner and goes wider as it gets closer to the road. Ms. Marlin questioned if approving 5.7 feet on the east side would move the building further away than it is now. Mr. Fuchs agreed.

Ms. Marlin stated Mr. Fuchs proposed two options regarding the combined lot coverage that are worth a discussion. The first would be potentially allowing them to keep the 31 percent coverage, but also determining that they must comply with the mitigation provided that was detailed in the staff recommendation. The other alternative would be to reduce the percentage of coverage on the lot.

Mr. Welcenbach felt the house looked too big. He felt they were sticking a big house in a small area. Mr. Welcenbach stated it goes back to what is reasonable versus what is necessary. He questioned if 900 square feet was reasonable. Ms. Marlin stated 900 feet plus was reasonable, but not much more than that. She stated the unique shape of the lot made it difficult to build. If this is leading us to say the structure should not occupy more than 20 percent. If we allow the 31 percent coverage and not one or all the variances, would be a concern of being contradictory.

Mr. Tredwell agreed it was a large structure. Ms. Marlin stated this home was potentially too big for this lot. She stated it would be a self-created hardship.

Mr. Welcenbach questioned if the lot coverage of 30 percent included the boat house, sidewalk, and driveway. Mr. Fuchs stated the code was written where the allowances of 20 percent of the lot by structures and 10 percent would be covered by impervious surfaces. There is language for going up to 35 percent combined.

Mr. Tredwell stated the lot coverage combined would be under 30 percent if we were to not approve the variance on the west side. Mr. Welcenbach stated they would still be able to build a structure to code if that were to be approved. Mr. Welcenbach stated they would have to get a variance because they could not build the minimum of 900 square feet there. Mr. Welcenbach wanted to make sure whatever was granted was appropriate.

Mr. Matt felt this house should be kept eight feet off the lot line being the Bartnicki house was 1.6 feet off the lot line. He was not favorable to a variance on that side either. Mr. Welcenbach stated his counter to that would be that they are already 2.5 feet off the line now, instead of moving it back 3 feet. Ms. Marlin felt it was an improvement from where the current building sits.

A motion was made and seconded (K. Marlin, J. Tredwell) to approve the variance from Section 17.0411a to allow a front/street yard setback ranging from 21.6 feet to 8.9 feet, opposed to the required minimum average front/street yard setback of 20-feet and from Section 17.0411b to allow an east side yard setback of 5.7 feet and not approving the west side yard setback of 5.0 feet, opposed to the Rs-7 district minimum side yard setback of 8-feet for 2-story structures. Section 17.0436d to not allow for a total combined lot coverage of approximately 31% and to approve Section 17.0435f and 17.0436c. (5) to allow a building/structure to be located within 75-feet of the floodplain boundary as illustrated in plan provided. Motion Passed: 3-For, 1-Against (T. Matt).

4. **PUBLIC HEARING**, Discussion and Possible Action Regarding the Petition of Jason and Michelle Sciborski for the Property Located at W272N408 Hilltop Drive (PWC 0984-020) for a Variance from Section 17.0408f.(3) of the City's Zoning Code to allow for a rear yard setback of 20-feet, opposed to the minimum required rear yard setback of 35-feet and a variance from Section 17.1402g)113-Garage, Private, Detached Residential to allow for a 1,443 square foot detached garage, opposed to the maximum area allowed of 1,200 square feet.

Mr. Fuchs stated the variances are for construction of a detached garage. He stated the size was to accommodate a recreational vehicle. Staff was recommending denial of the variance request. He did not feel the findings of the indicated ordinance were met. The shape of the lot was not that irregular. The garage was to accommodate a recreational vehicle, which is a self-imposed hardship, and there was sufficient area to meet the setback.

Mr. Welcenbach questioned if there was an existing attached garage to the home. Mr. Fuchs stated the home did have an attached garage. Ms. Marlin clarified that this was an accessory three-car garage

detached from the home. Ms. Marlin asked where the accessory garage was supposed to be placed. Mr. Tredwell stated it was the middle lot above lot five.

Mr. Tredwell questioned Mr. Fuchs staff report regarding RVs not being allowed in the open. Mr. Fuchs stated the City only allows it on a temporary basis for up to 45 days, as long as it was 30-feet or less in length. Mr. Tredwell asked how that was enforced. Mr. Fuchs stated the City operates on a complaint basis.

Mr. Sciborski stated he realized he should have submitted more information and a better plan. Mr. Sciborski spoke with his neighbors and he knew they approved, and he explained to them what they were looking to do. Ms. Marlin stated what the community thinks is important, but whether your neighbors are for or against it does not factor into the test we have to analyze.

Mr. Sciborski stated the back corner of the lot does not come to a 90-degree angle, but has a web shape to it, so to be 35-feet from the right corner and 20-feet off the side lot line, then would be 70-feet on the other back corner. Mr. Sciborski stated it created a lot of dead space in the back. He stated the setback pushes it out into the yard. He stated the biggest rational was the angle. He stated if we went to 20 feet, we would then vary from 20 feet to 55 feet on average. The 35-foot setback would still be met, and we would be a lot closer in that one corner. Mr. Sciborski mentioned storage because he was trying to avoid a situation like the pictures he showed. Mr. Sciborski spoke with someone on Northview Road and asked about his process because he did what Mr. Sciborski was trying to do. Mr. Sciborski stated everything was self-imposed. He knows he does not need a nice garage, but it would look nice not having junk in his yard. Mr. Sciborski hoped that from a design standpoint, it would look nice. There was no impact in terms of a floodplain.

Mr. Welcenbach questioned why the applicant would apply for this if they recognized it was a self-imposed hardship. Mr. Sciborski indicated the back corner was the only place they could put the garage; the lot has a slope to it. The only flat part was in the top left corner. Once you get out from that, everything slopes down to the right side of the house and down to the culvert. They thought they could bring it closer to the house, but they have almost a T. There is living space behind it and it would not work there.

Mr. Tredwell questioned if Mr. Sciborski was asking for a variance from 35-feet to 20-feet at the one corner, so if it came 15 feet closer to the property, it would not fit as well. Mr. Sciborski stated it becomes more than 15 feet because they have 20 feet on the side yard. They would have to shift to the left, which is why the 35 feet in the one corner becomes 70 feet in the other corner. They would have to shift it forward and to the right.

Ms. Marlin reiterated the tests must be met in discussing all of this. She stated the Board needs to consider what the unnecessary hardship is, and she did not feel the Board met that bar. Ms. Marlin stated there was an appeal to reasonableness to have things look nice, but it is not an unnecessary hardship that is unique to the property to have more equipment that needs storage. Mr. Sciborski was unsure how that bar was met if they looked at the garage in the fifth picture. Ms. Marlin stated she was afraid of the comparison and was not on a board that approved that. She felt approving one does not set a precedent we have approved others.

Mr. Tredwell felt what Mr. Sciborski was offering was a better alternate than an RV sitting out in the yard. There was also no reason to have a 1400 square foot garage, other that it would be nice. Mr. Tredwell agreed with Ms. Marlin and Mr. Welcenbach that it did not meet the unnecessary hardship.

Mr. Matt stated the lot is unusual because it is not straight across the back. He stated it does seem to be the best place to build a detached garage. He did see a hardship with this situation and thought the

garage could be staggered to keep it away from the right side of the lot line and deeper on the left side. Mr. Sciborski stated they did think about an L shape, but it would complicate things, such as roof lines not matching up, as well as the house and cost.

A motion was made and seconded (K. Marlin, R. Welcenbach) to deny the variance from Section 17.0408f.(3) of the City's Zoning Code to allow for a rear yard setback of 20-feet, as opposed to the minimum required rear yard setback of 35-feet and a variance from Section 17.1402g)113-Garage, Private, Detached Residential to allow for a 1,443 square foot detached garage, opposed to the maximum area allowed of 1,200 square feet.

Motion Failed. 2-For, 1-Against (J. Tredwell), 1-Abstain (T. Matt).

Mr. Fuchs stated there are maybe some thoughts that the lot is unusual and does not have to be exactly what is proposed. Mr. Fuchs reminded the Board they can consider something between what is requested and what is required.

Ms. Marlin questioned if the applicant were willing to discuss a smaller garage, and if a smaller garage would take up less space and not have to be as far back. She felt it was hard to make the decision and have the discussion without a new plan drawn up to see. Ms. Marlin stated the idea in denying the variance was not to say they would not consider anything; this just does not meet the test to allow the variance.

Mr. Tredwell stated you can go up to 1200 square feet without a variance. He stated we can strike that out and come up with a lesser variance to the 20 feet. He wanted a 20-foot setback, but 35-feet was what was there, so somewhere between the two.

Mr. Matt stated without a full-size survey, we cannot take any measurements to see where we would be with a smaller structure.

Mr. Sciborski questioned if the Board would consider denying the square foot request but approve the setback request. Ms. Marlin stated if they reduce the size of the building, it would not come so close to the center of the lot, so they would not have to set it as far back into the setback.

Mr. Welcenbach stated if Mr. Sciborski made it a two-unit instead of a three-unit it would not be shifted all the way over and could be close to meeting the 35-foot setback. Mr. Welcenbach questioned if Mr. Sciborski's concern was that it would stay the same distance to the house, and if they would want to push it further to the back of the lot. Mr. Welcenbach stated if the variance were denied in whole, they would have to move the structure to the right and would probably be looking out the back door at it. Mr. Welcenbach felt it would not be so far in the center and meet more of the code if it went from the three to the two.

Mr. Sciborski stated he would drop it to 1200 square feet to stay within code. Ms. Marlin stated if he reduced the square footage to 1200, that should come off the piece that is in the setback. She stated that would then reduce the amount of variance needed. Mr. Tredwell stated we have the legal aspects to deal with and we have neighbors parking their RVs out in their yards.

Mr. Welcenbach questioned what the dimension of the proposed structure was, and Mr. Sciborski confirmed it was about 38x38 with the variance. Mr. Sciborski stated he would shrink that down to 34x35 to get under the 1200 square feet. Mr. Tredwell questioned if the applicant would not proceed if that left it closer to the house than he was comfortable with building if we do not give you the setback at 20 and keep it at 35. Mr. Sciborski concurred.

Mr. Sciborski stated he could not justify the hardship of the size if he was in the Board's shoes. Mr. Matt questioned the mention of it being screened in that back corner. Mr. Sciborski stated the neighbor has a shed about five feet from the lot line and there are several trees. Mr. Tredwell stated there is a narrow tree line north, and about 30-foot trees on all the lot lines. Mr. Sciborski stated that was the other benefit, as it hides it and tucks it away. Mr. Tredwell suggested coming up with an average of 35-feet from the middle of the garage rather than the furthest corner. Ms. Marlin stated she hesitated playing architect because they are not architects. She believed Mr. Sciborski received solid feedback that would let him request another reasonable variance.

A motion was made and seconded (T. Matt, J. Tredwell) to approve the variance from Section 17.0408f.(3) of the City's Zoning Code to allow for a rear yard setback of 27-feet, as opposed to the minimum required rear yard setback of 35-feet and a variance from Section 17.1402g)113-Garage, Private, Detached Residential to allow for a 1,443 square foot detached garage, as opposed to the maximum area allowed of 1,200 square feet.

Motion Failed. 2-For, 2-Against (K. Marlin, R. Welcenbach).

Ms. Marlin stated her hurdle was the unnecessary hardship test. She stated this was not an unnecessary hardship, but the look of it was reasonable and the idea was reasonable. She stated the only reason the applicant had this hardship was because he had extra recreational equipment to store. She felt this was self-imposed. Mr. Welcenbach agreed. He stated it was not a hardship for him to put it somewhere else. Ms. Marlin stated we have not established that it cannot go somewhere else.

Mr. Sciborski stated he was hoping reasonableness would win. He understood the hardship but did not understand how that bar was ever met. Ms. Marlin questioned Mr. Matt and Mr. Tredwell on how they are getting the hardship bar met. Mr. Matt stated he was still stuck on the back corner and felt it was an unusual situation. Ms. Marlin stated she agreed on the unique property characteristic, but she was trying to get to the unnecessary hardship. Mr. Matt stated that was the only place to build it on the yard, based on the topography and the road next to the house. Ms. Marlin stated her question was more on the necessity of the garage due to an unnecessary hardship, and not about where it should go or the unique property characteristic. Mr. Tredwell stated he wanted to hide the RV he already owns. Ms. Marlin stated there are alternatives to that, and people rent storage units to do that. Mr. Tredwell stated he did not meet the unnecessary hardship level, but instead the reasonableness level.

Mr. Sciborski stated it made sense. He questioned if it would be enough if it met all the other requirements by a large amount. Mr. Welcenbach stated if Mr. Sciborski proposed a three-unit structure and we agree with what Mr. Tom said, Mr. Sciborski could propose a five-unit structure that takes up a larger part, but that does not entitle him to a variance either. Mr. Welcenbach stated it would be different if he was proposing something small within the 1200 square feet. Mr. Welcenbach stated Mr. Sciborski was creating his own hardship by creating a structure that big on the lot. Ms. Marlin stated the smaller the building becomes, the less you encroach into the setback. Mr. Welcenbach questioned why the applicant did not propose a one-unit garage to park the RV in if the hardship were to park an RV. Mr. Sciborski stated it was for multipurpose recreational for his kids and not just to park an RV. Ms. Marlin stated additional recreational, or the lack of recreational space, is not an unnecessary hardship. Mr. Sciborski stated the best argument he has for the hardship is the shape of the lot.

Ms. Marlin stated she could get closer to an agreement if the garage was smaller and therefore could be less into the setback. Mr. Fuchs stated this item could be tabled, and the applicant could bring back a revised proposal.

A motion was made and seconded (K. Marlin, R. Welcenbach) to table the variance from Section 17.0408f.(3) of the City's Zoning Code to allow for a rear yard setback of 20-feet, as opposed to the minimum required rear yard setback of 35-feet and a variance from Section 17.1402g)113-Garage, Private, Detached Residential to allow for a 1,443 square foot detached garage, as opposed to the maximum area allowed of 1,200 square feet until Monday, December 14, 2020 at 6:00 P.M.

Motion Passed. 4-For, 0-Against.

5. Adjournment

A motion was made and seconded (R. Welcenbach, T. Matt) to adjourn the meeting at 8:00 P.M.

Motion Passed: 4-For, 0-Against.

Respectfully Submitted,

Nadine McMillian
Accounting & Payroll Specialist

**CITY OF PEWAUKEE
ZONING BOARD OF APPEALS AGENDA ITEM 3.**

DATE: March 30, 2021

DEPARTMENT: Zoning Appeal

PROVIDED BY:

SUBJECT:

Discussion and possible action to approve the Zoning Board of Appeals minutes dated December 14, 2020

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

ZBA Minutes 12/14/2020

In attendance:

R. Welcenbach, T. Matt, J. Tredwell and K. Marlin.

Also Present:

City Planner & Community Development Director N. Fuchs, Clerk/Treasurer K. Tarczewski and Accounting & Payroll Specialist N. McMillian.

1. Call to Order and Pledge of Allegiance

Ms. Marlin called the meeting to order at 6:02 P.M.

2. Discussion and Possible Action to Approve Zoning Board of Appeals Meeting Minutes Dated December 1, 2020

Ms. Marlin stated the minutes were not ready and will be pushed to the next meeting.

3. Continuation of **PUBLIC HEARING** Originally Held on December 1, 2020, Further Discussion and Possible Action Regarding the Petition of Jason and Michelle Sciborski for the Property Located at W272 N408 Hilltop Drive (PWC 0984-020) for a Variance from Section 17.0408f.(3) of the City's Zoning Code to allow for a rear yard setback of 20-feet, opposed to the minimum required rear yard setback of 35-feet and a variance from Section 17.1402g)1 13 Garage, Private, Detached Residential to allow for a 1,443 square foot detached garage, opposed to the maximum area allowed of 1,200 square feet.

Ms. Marlin stated the petitioner was looking to build a garage that was previously discussed at the December 1, 2020 meeting. Ms. Marlin stated Mr. Sciborski changed his request to only address the need for a change to the rear yard setback. Ms. Marlin further stated the applicant withdrew the request to allow for a greater square footage for the detached garage.

Mr. Fuchs stated the applicant updated the narrative and took out the additional square footage on the garage. Mr. Fuchs stated the setback was the same at 20 feet from the rear yard. The staff recommendation has not changed and there was still a concern as to whether there were unusual circumstances and if the use of the lot not having to meet that setback created any unnecessary burdens, as a single-family property. Mr. Fuchs stated staff was still recommending denial of the application.

Mr. Sciborski stated because the lot slopes down from north to south and west to east, he did look at other alternatives. Mr. Sciborski stated he looked at putting the garage in the right corner rather than the left corner where there is a 90-degree angle, but because of how the lot slopes and all the drainage that runs to that side of the house, it would not work over there. He stated because of the setback requirements and the web shape, it did push it out more to the center of the yard. His thought was to maybe move it as close to the driveway as possible. He stated that would not work either because there was an electrical pole on the side of the yard, and there would be where the driveway extension would go. Mr. Sciborski stated if he could push the garage to the 20 feet instead of the 35 feet, he would still be 57 feet from the corner which is on average 38.5 feet, which is more than the 35 feet just to try to push everything in that corner of the lot.

Mr. Sciborski stated he asked the builder, Henderson Group, to verify everything. He went out and staked everything to make sure that was how everything would sit. Mr. Sciborski stated it is a lot of the same information, but he shrunk the structure down.

Ms. Marlin questioned if the new structure was the same measurement of 40x38 square feet. Mr. Sciborski stated the garage was reduced to 35x34 square feet. He stated it was the same overall design as before, just shrunk down. Mr. Sciborski stated it helps because it would be 72 feet from the back corner and 70 feet from the right front corner, which is in the middle of the flat area of his yard. Mr. Sciborski stated the further it can be pushed the more it could help with the neighbors' sight line.

Ms. Marlin stated Mr. Sciborski pointed out in his narrative that it would be difficult to build a garage to conform because it would make the garage unreasonably situated in the middle of the yard. Mr. Sciborski stated he did not want to go down this road. He stated he was not a realtor, but thought about resale value, and did not make sense to have it in the middle of the yard with all of the dead space around it.

Mr. Welcenbach questioned if the whole back part of the garage was not within the 35 feet because it was on an angle. Mr. Sciborski stated a little less than half of the garage would be closer than the 35 feet and the rest would be further. Mr. Sciborski stated half of the back of garage would comply, and the rest would not.

Mr. Tredwell stated the one corner will be with in the 35 feet and the rest of it would not be, because of the way it angles. Mr. Sciborski stated he tried to highlight the triangle area, which was the dead space. Mr. Tredwell stated if his garage would have been built on the other side of the house, he would not be here because of the way the lot goes.

Mr. Matt stated his problem with the hardship was the weird back corner of the lot. Mr. Matt realized we would only be giving half of a variance because of the part in the proper setback. He did like the idea that the back area was screened with trees.

Ms. Marlin stated it has been made clear in this narrative that it is likely a reasonable use to not have a garage that is in the center of a yard.

Mr. Welcenbach questioned if the garage would still have three doors. Mr. Sciborski stated the builder will have to figure that out because it depends on space and what doors are picked.

Ms. Marlin closed the public hearing.

Mr. Welcenbach stated the compliance of the square footage was better than last time. Mr. Welcenbach did not realize last time that it was only part of the structure that was not in compliance. He still had issues as to whether it was a hardship, but it was a minimal request. Ms. Marlin stated that since it was not the entire structure, it mitigated the fact of being unsure about an unnecessary hardship. Ms. Marlin stated the fact that it was not the entire building mitigated that. Ms. Marlin felt this was somewhat of a unique property that it could not really be placed anywhere else.

Mr. Tredwell agreed based on a legal and hardship standpoint. Mr. Tredwell felt they were good-sized parcels with tree lines. Mr. Tredwell stated based on Mr. Sciborski's photos, the storing of boats and RVs seemed to be common, which contradicted the rules of the City.

A motion was made and seconded (T. Matt, J. Tredwell) for a Variance from Section 17.0408f.(3) of the City's Zoning Code to allow for a rear yard setback of 20-feet, opposed to the minimum required rear yard setback of 35-feet and a variance from Section 17.1402g)113 Garage, Private, Detached Residential to allow for 1,443 square foot detached garage, opposed to the maximum area allowed of 1,200 square feet. Motion Passed: 3-For, 1-Against (R. Welcenbach).

4. Adjournment

A motion was made and seconded (J. Tredwell, T. Matt) to adjourn the meeting 6:26 P.M.

Motion Passed: 4-For, 0-Against.

Respectfully Submitted,

Nadine McMillian
Accounting & Payroll Specialist

**CITY OF PEWAUKEE
ZONING BOARD OF APPEALS AGENDA ITEM 4.**

DATE: March 30, 2021

DEPARTMENT: Zoning Appeal

PROVIDED BY:

SUBJECT:

PUBLIC HEARING, discussion and possible action regarding the request of Craig Caliendo, Kings Way Homes, for the property located at W249N2191 Fox Creek Court (PWC 0950033) for a variance from Section 17.0408f.(4) and 17.0436c.(5) to allow for a rear yard setback of 39.50-feet from the north property line, opposed to the required minimum 75-foot setback from a navigable stream.

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

Still River Application

Still River Plans

Still River Staff Report



Office of the Planner & Community Development Director
 W240 N3065 Pewaukee Road
 Pewaukee, Wisconsin 53072
 Phone (262) 691-0770
 Fax (262) 691-1798
 fuchs@pewaukee.wi.us

APPLICATION FOR VARIANCE REQUEST

TO THE HONORABLE MAYOR AND ZONING BOARD OF APPEALS OF THE CITY OF PEWAUKEE, WAUKESHA COUNTY, WISCONSIN

The undersigned hereby petitions the Zoning Board of Appeals of the City of Pewaukee, Waukesha County, Wisconsin requesting a variance from: Building Restrictions within the Primary Environmental Corridor

Legal description of property to be rezoned – Please attach.

Common property description or name: Lot 11, Still River Subdivision
 Property Address: W249 N2191 Fox Creek Ct. Tax Key Number(s): PWC 0950033
 Property owner(s) (Full Legal Name): Fox Creek LLC.
 Owner's Address: 700 Pilgrim PKwy suite 100 City/State/Zip: Elm Grove, WI 53122
 Phone: 414-333-2059 Email: ccaliendo@kingswayhomes.com

Applicant (Full Legal Name):

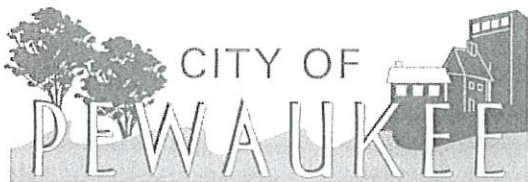
Name: Craig Caliendo
 Company: Kings Way Homes LLC.
 Address: 700 Pilgrim PKwy Suite 100
 City/State/Zip: Elm Grove, WI 53122
 Phone: 414-333-2059
 Email: ccaliendo@kingswayhomes.com

Contact Person (Full Legal Name):

Name: Craig Caliendo
 Company: Kings Way Homes LLC.
 Address: 700 Pilgrim PKwy Suite 100
 City/State/Zip: Elm Grove, WI 53122
 Phone: 414-333-2059
 Email: ccaliendo@kingswayhomes.com

Variance submittals must include and be accompanied by the following:

- This Application form accurately completed with original signatures.
- Application Filing Fee, payable to the City of Pewaukee:
 - o \$400.00
 - o Note costs for publication, notice and all attorney fees related to the project shall be paid by the applicant and will be invoiced separately
- Five (5) complete collated sets of Application materials to include:
 - o A written project narrative detailing the request and site & building improvements.
 - o Scaled drawings, as may be applicable, including, but not limited to; a site plan, building elevations, colored renderings, and natural resource delineations.
- Variance Findings Form
- All application materials provided in a digital format (Adobe PDF). Materials may be submitted on a USB Flash Drive or emailed to tarczewski@pewaukee.wi.us.
- Note twelve (11) additional sets of plans will be required for the Zoning Board of Appeals following staff review of the initial submittal. These plans should be revised in response to staff comments as may be necessary.



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 Pewaukee, Wisconsin 53072
 Phone (262) 691-0770
 Fax (262) 691-1798
fuchs@pewaukee.wi.us

The applicant and property owner(s) hereby certify that:

- 1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s)' knowledge;
- 2) the applicant and property owner(s) has/have read and understand all information in this application; and
- 3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval.

(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature[s] below. If more than one, all of the owners of the property must sign this Application).

PETITIONER'S/APPLICANT'S SIGNATURE: _____

NAME & TITLE (PRINT): Craig Caliendo, President

SIGN AND DATED this _____ day of _____, _____.

PROPERTY OWNER'S SIGNATURE: _____

NAME & TITLE (PRINT): Craig Caliendo, Author Member

SIGN AND DATED this _____ day of _____, _____.

PROPERTY OWNER'S SIGNATURE: _____

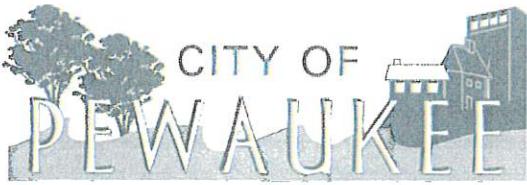
NAME & TITLE (PRINT): _____

SIGN AND DATED this _____ day of _____, _____.

City Staff-

RECEIVED at City Hall by: _____ on _____

Fee paid: \$ _____ Date: _____



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VARIANCE FINDINGS FORM

It is recommended that this form be completed and submitted as part of all variance requests.

Date: 2/10/21 Property Owner: Fox Creek LLC.
 Property Address: W249 N2191 Fox Creek Ct.

Section 17.1007 states, "No variance to the provisions of this Ordinance shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates such in the minutes of its proceedings:

- a. Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted principle use, permitted accessory use, or permitted conditional use in that particular district.

See attached

- b. Exceptional Circumstances: There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Ordinance should be changed.

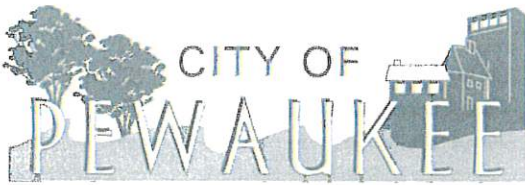
See attached

- c. Economic or Financial Hardship and Self-Imposed Hardship Not Grounds for Variance: No variance shall be granted on the basis of economic/ financial gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

See attached

- d. Preservation of Property Rights: The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

see attached



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W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770
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fuchs@pewaukee.wi.us

-
-
- e. Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

See attached

- f. Additional Requirements in Floodplain District: No variance in or related to a floodplain* shall be granted where:
- (1) A change in the boundaries or elevation of the base flood floodplain (F-1 District) would result.
 - (2) A lower degree of flood protection than a point two (2) feet above the 100-year recurrence interval base flood for the particular area would result.
 - (3) Any action contrary to the provisions of Chapter NR-116 of the Wisconsin Administrative Code would result. (See sub-section 17.0435 and WisDNR requirements)
 - (4) The lot or parcel is larger than one-half acre and is not contiguous to existing structures constructed below the regional (base) flood elevation.
 - (5) No good or sufficient cause can be shown; greater than a minimum relief is necessary; there is increased risk to public safety or nuisances; rescue and relief costs would be increased; and, it is contrary to the purposes of this ordinance.
 - (6) Such variance would allow alteration of an historical structure and/or use.

See attached

- g. When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 per coverage. A copy shall be maintained with the variance record.

See attached

Project Narrative

Lot 11 (the "Lot") in the Still River Subdivision (the "Subdivision") currently has an environmental corridor that runs almost through the center of Lot, severely limiting the building pad. The development of this Subdivision over time has leant itself to larger, high-end homes. Kings Way Homes LLC ("Kings Way") would like to construct a home on this site that is a popular design and consistent with homes previously built in that Subdivision. The ranch home that is planned to be built is approximately 2,700 square feet on the first floor. To fit this size ranch, Kings Way needs a variance to the Primary Environmental Corridor setback.

a. The use of the Lot will be consistent with intended use. The Lot was originally planned to have a single-family home built on it; we intend to build a single-family home that abides by all the Subdivision restrictions and all other City Ordinance.

b. The onerously small building envelope on Lot 11 is a result of the exceptional and unusual circumstance of the Primary Environmental Corridor setback cutting the otherwise normal size building pad in half. The Lot is 23,600 square feet in size, but the building pad is less than half of the size of the building pads on adjacent lots in the Subdivision. Without the granting of a variance, it is impossible to build a single-family home on Lot that is anything close to the other homes constructed in the Subdivision. The fact that the Lot is a cul-du-sac lot exacerbates this problem.

c. The unreasonably small building pad on Lot 11 is not a self-imposed hardship. The variance relief requested is based upon feasibility, not financial hardship.

d. The environmental corridor severely hinders the preservation and enjoyment of substantial property rights that are possessed by the other properties in the same Subdivision. The only way to build a home consistent with the other single-family homes in the Subdivision is reliant on a variance to the environmental corridor setback.

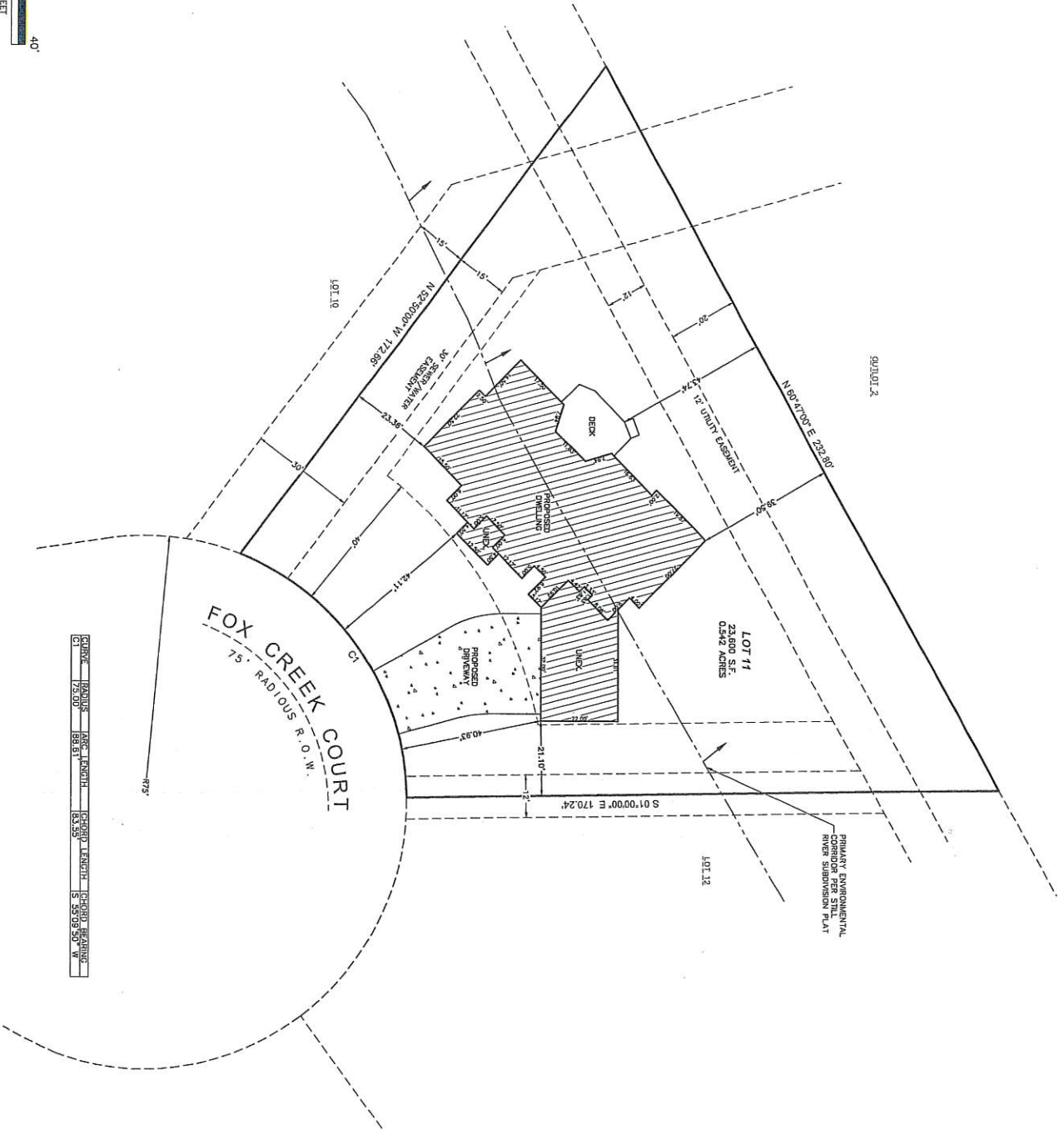
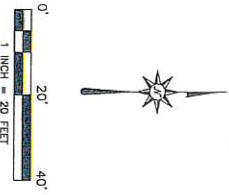
e. The granting of the requested variance will not create a detriment to any of the adjacent properties, or any other lot in the entire Subdivision. On the contrary, the variance would improve the overall design and quality of home to be constructed on the Lot, which would help preserve the value of the neighboring lots and overall perception of the Subdivision.

f. Not Applicable

g Not Applicable

PLAT OF SURVEY

LOT 11 OF STILL RIVER SUBDIVISION, BEING A PART OF THE NE 1/4 OF SECTION 21, AND PART OF THE NE, SE & NW 1/4S OF THE NW 1/4 OF SECTION 22, T7N, R18E, CITY OF PEWAUKEE, WAUKESHA COUNTY, WISCONSIN.



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
1	75.00	62.83	52.25	S 55°53'30\"/>

SETBACK REQUIREMENTS
 FRONT YARD = 40'
 SIDE YARD = 20'
 REAR YARD = 35'

CLIENT	KINGS WAY HOMES		LOCATION	LOT 11 STILL RIVER PEWAUKEE WISCONSIN		REV.	
PROJECT	STILL RIVER BUILDERS		DRAWN BY	LJS	CHECKED BY	MT	
LAYOUT	PRELIM. LAYOUT						
DRAWING	21014_SURVEY.DWG						
DATE	01/18/2021						
JOB NO.	21014						
SHEET	1 OF 1						

Waukesha County GIS Map

LAND INFORMATION SYSTEMS DIVISION



Legend

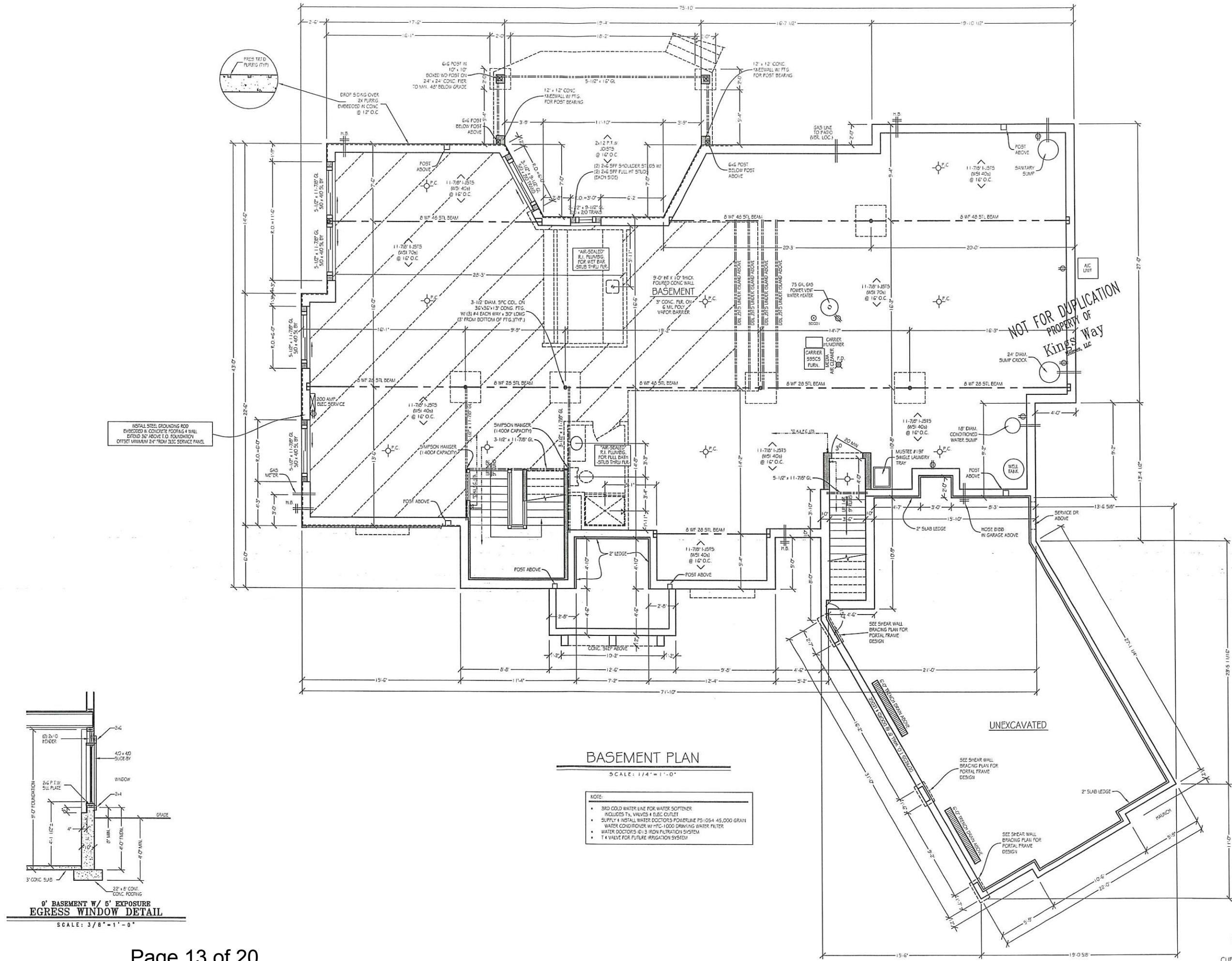
- DNR Wetlands < .25 Acre
- DNR Wetlands > .25 Acre
- Environmental Corridors 2
- Water
- Isolated Natural Resource A
- Isolated Natural Resource A
- Primary Env. Corridor
- Primary Env. Corridor Water
- Secondary Env. Corridor
- Secondary Env. Corridor Wa
- Municipal Boundary_2K
- FacilitySites_2K_Labels
- Lots_2K
- Lot
- Unit
- General Common Element
- Outlot
- SimultaneousConveyance
- Assessor Plat
- CSM
- Condominium
- Subdivision
- Cartoline_2K
- <all other values>
- EA-Easement_Line
- PL-DA
- PL-Extended_Tie_line
- PL-Meander_Line
- PL-Note
- PL-Tie
- PL-Tie_Line
- Road Centerlines_2K
- Railroad_2K
- TaxParcel_2K
- Waterbodies_2K_Labels
- Waterlines_2K_Labels

Notes:

The information and depictions herein are for informational purposes and Waukesha County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Waukesha County will not be responsible for any damages which result from third party use of the information and depictions herein, or for use which ignores this warning.



Printed: 1/19/2021



NOT FOR DUPLICATION
PROPERTY OF
Kings Way
INC.

BASEMENT PLAN

SCALE: 1/4" = 1'-0"

- NOTE:
- 3RD COLD WATER LINE FOR WATER SOFTENER
 - INCLUDES TS, VALVES & ELEC. OUTLET
 - SUPPLY & INSTALL WATER DOCTORS POWERLINE PS-054 45,000 GRAIN WATER CONDITIONER w/ HFC-1000 DRINKING WATER FILTER
 - WATER DOCTORS ID13 IRON FILTRATION SYSTEM
 - T & VALVE FOR FUTURE IRRIGATION SYSTEM

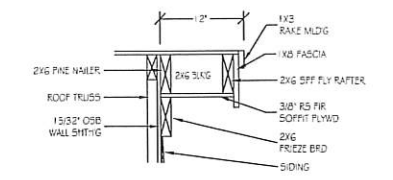
**9' BASEMENT W/ 5' EXPOSURE
EGRESS WINDOW DETAIL**

SCALE: 3/8" = 1'-0"



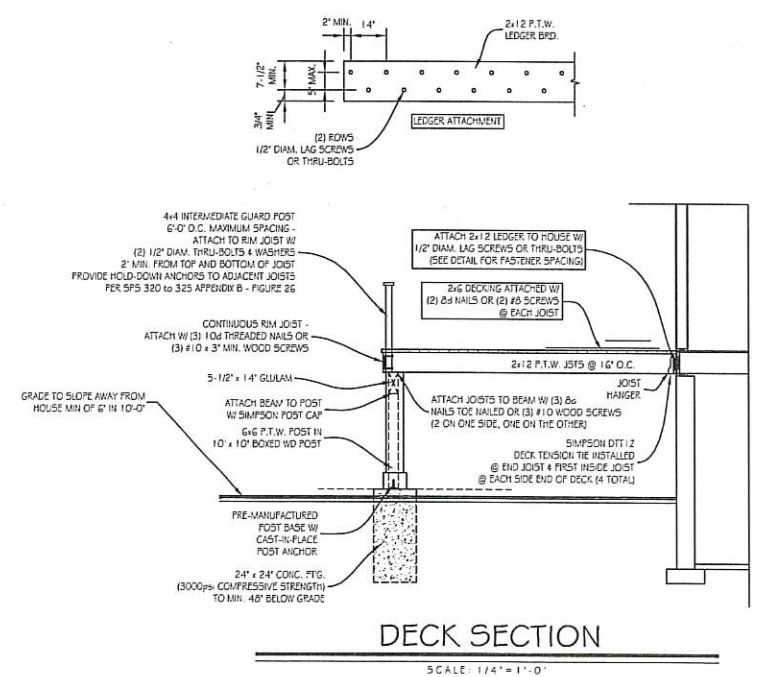
LEFT SIDE ELEVATION

SCALE: 1/4" = 1'-0"



DBL RAKE DETAIL LOOKOUT

SCALE: 1" = 1'-0"



DECK SECTION

SCALE: 1/4" = 1'-0"



RIGHT SIDE ELEVATION

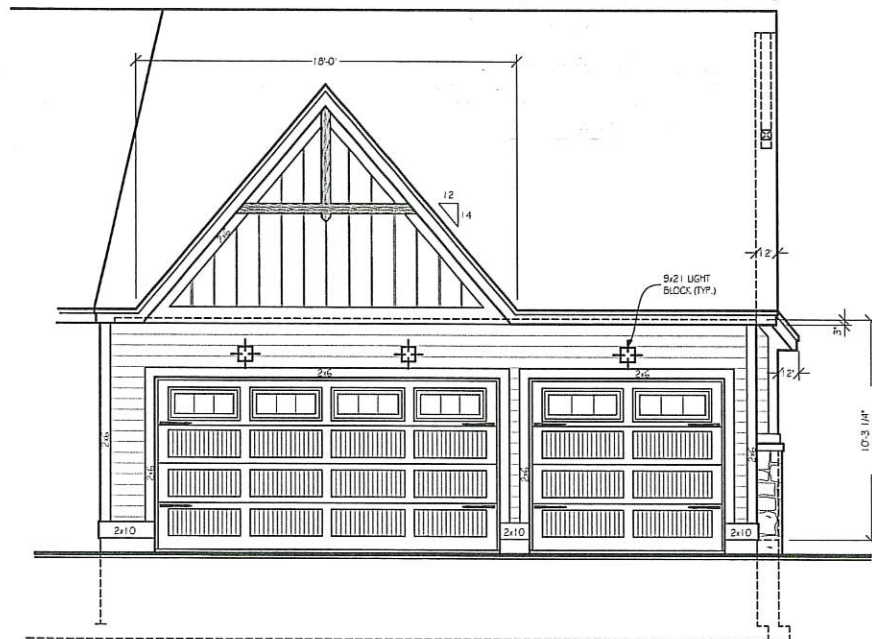
SCALE: 1/4" = 1'-0"



NOT FOR DUPLICATION
PROPERTY OF
Kings Way
HOMES, LLC

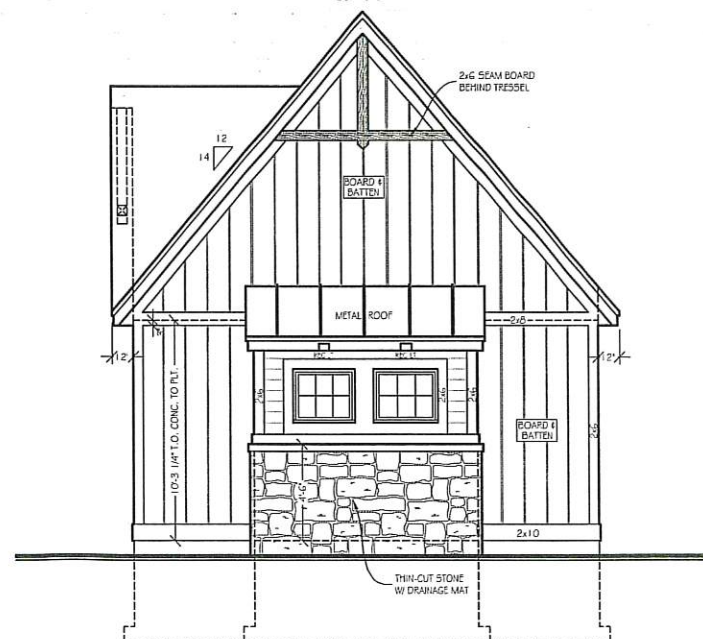
REAR ELEVATION

SCALE: 1/4" = 1'-0"



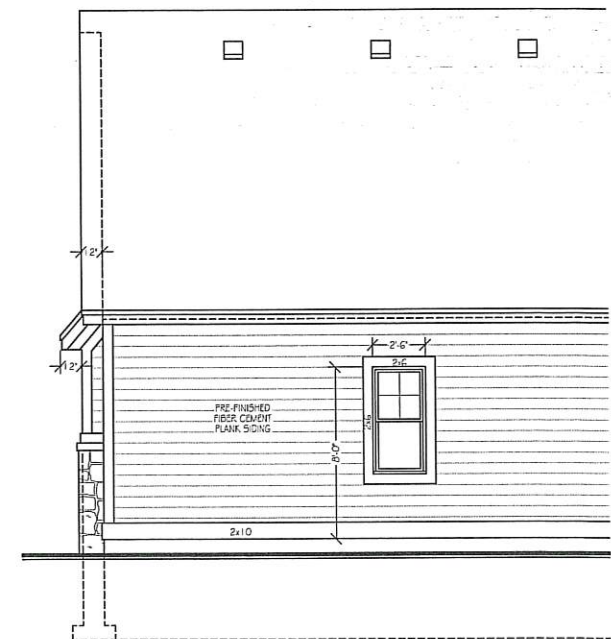
LEFT SIDE ELEVATION

SCALE: 1/4" = 1'-0"



FRONT ELEVATION

SCALE: 1/4" = 1'-0"



RIGHT SIDE ELEVATION

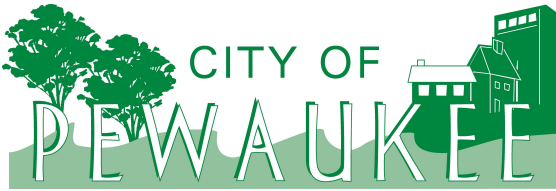
SCALE: 1/4" = 1'-0"



FIRST FLOOR ELECTRICAL PLAN

SCALE: 1/4" = 1'-0"

NOTE:
 • (4) LOCATIONS CAT5E / REGOS SINGLE PLATE JACKS
 • INSTALL BUYER'S PHOTOCELL FOOT LIGHT



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Pewaukee, Wisconsin 53072
Phone (262) 691-0770 Fax (262) 691-1798
fuchs@pewaukee.wi.us

REPORT TO THE ZONING BOARD OF APPEALS

Meeting of March 30, 2021

Date: February 22, 2021

Project Name: Lot 11 Still River Variance Request

Project Address/Tax Key No.: W249N2191 Fox Creek Court/PWC 0950033

Applicant: Craig Caliendo, Kings Way Homes, LLC

Property Owner: Fox Creek, LLC

Current Zoning: Rs-4 Single-Family Residential District and LC Lowland Conservancy District

Proposed Zoning: Same

2050 Land Use Map Designation: Low Density Residential

Use of Surrounding Properties: SEWRPC Environmental Corridor to the north and single-family residential to the south, east and west

Project Description/Analysis:

The applicant filed a Variance Application requesting a variance from Section 17.0408f.(4) and 17.0436c.(5) to allow for the construction of a new home upon property located at W249N2191 Fox Creek Court with a rear yard setback of 39.50-feet from the north property line, opposed to the required minimum 75-foot setback from a navigable stream.

The subject property is zoned Rs-4 Single-Family Residential District and LC Lowland Conservancy District. The majority of the property is zoned Rs-4 District; however, a small strip of land along the rear property line is zoned LC District.

The applicant is proposing an approximately 2,700 square foot ranch style home. The home also includes a 94 square foot front porch, an 826 square foot attached garage, and a 293 square foot deck. The footprint of the structure significantly extends into the required setback as shown on the attached survey.

The applicant has indicated that due to the 75-foot setback, there is a limited buildable area to construct a home that is consistent with the other homes within the subdivision. In the attached project narrative, the applicant provides responses to the Findings outlined in Section 17.1007 of the City's Zoning Code. Section 17.1007 states that the Zoning Board of Appeals shall not grant a variance "unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings."

Recommendation:

Staff finds that the Still River Subdivision was approved and planned for a home to be constructed within the buildable area as shown on the subdivision plat. It was known at that time that a smaller, custom home would be required to fit within that building envelope.

Furthermore, staff does not find that an attempt has been made or alternative designs considered that may comply with the required setbacks. This is evident by the proposal of a ranch style home with 2,737 square feet of living area, a front porch, 3-car garage, and large deck.

Staff contends that a smaller home with a two-car garage could be designed to better fit this lot and buildable area. Moreover, a 2-story home should be considered to reduce the size of the building footprint.

Staff recommends denial of the variance request based on the comments above.

**CITY OF PEWAUKEE
ZONING BOARD OF APPEALS AGENDA ITEM 5.**

DATE: March 30, 2021

DEPARTMENT: Zoning Appeal

PROVIDED BY:

SUBJECT:

Discussion and possible action to determine when the Zoning Board of Appeals will start holding live meetings again versus virtual meetings

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION: