



Building Services

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

ZONING BOARD OF APPEALS MEETING NOTICE AND AGENDA

Wednesday, January 9, 2019

6:00 PM

Common Council Chambers ~ Pewaukee City Hall
W240 N3065 Pewaukee Road ~ Pewaukee, Wisconsin

-
1. Call to Order and Pledge of Allegiance
 2. **PUBLIC HEARING** Regarding the Request of **Blue Ribbon Management, LLC - N8 W22010 Johnson Drive (PWC 0961-996-006)** for a variance from Section 17.0423g(4) to allow for the use and maintenance of an existing nonconforming drive with an approximate side yard setback of 4-feet, inconsistent with the minimum M-1 District required side yard setback of 15-feet.
 3. Adjournment

Kelley Tarczewski
Clerk/Treasurer

January 7, 2019

NOTICE

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 Building Services office, at (262) 691-9107 by 11:00 a.m. the Monday 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: January 9, 2019

DEPARTMENT: Clerk/Treasurer

PROVIDED BY:

SUBJECT:

PUBLIC HEARING Regarding the Request of **Blue Ribbon Management, LLC - N8 W22010 Johnson Drive (PWC 0961-996-006)** for a variance from Section 17.0423g(4) to allow for the use and maintenance of an existing nonconforming drive with an approximate side yard setback of 4-feet, inconsistent with the minimum M-1 District required side yard setback of 15-feet.

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

Blue Ribbon Management

Application Deadline: _____

Meeting Date: _____

**Zoning Board of Appeals
Appeal and Application for Variance**

Pewaukee City Hall
W240N3065 Pewaukee Rd.
Pewaukee, WI 53072

NOTICE: The board meets on the first Wednesday of each month at 6:30pm in the City Hall Conference Room unless otherwise noted. **ATTENDANCE OF THE APPLICANT OR REPRESENTATIVE IS REQUIRED.** Failure to appear could result in the application being acted upon without the applicant's input, or it could result in the item being removed from the agenda, requiring the applicant to reapply and pay another filing fee.

The appeal or application must be filed with the Building Services Department **30 days prior to the next Zoning Board of Appeals meeting and within 20 days of the Building Inspector's denial of permit**, accompanied by the filing fee of \$400.00 and a list of names of all owners of property within 600 feet from the exterior boundaries of the properties requesting the variance. ** Note: Applicant/Owner is also responsible for reimbursing the City for cost of publishing legal notices and other fees, including, but not limited to, attorney fees for reviewing the petition.

ALL APPEALS FOR VARIANCES MUST INCLUDE PLANS SHOWING THE VARIANCES BEING REQUESTED.

Site Address NW Corner of Springdale & Johnson Dr.

Parcel Tax Key No. PWC 0961996006

	Applicant (person to receive notices)	Property Owner
Name	Blue Ribbon Management, LLC c/o Michael Kelly	B&G Realty LLC; Marcus Consid, LLC; Marcus Cinemas of Wisconsin LLC
Address	1125 N 9th St., Ste A	100 E Wisconsin Ave., Ste 1900
City, Zip	Milwaukee, WI 53233	Milwaukee, WI 53202
Phone	414-313-0057	

TO THE ZONING BOARD OF APPEALS:

I hereby make an application for a zoning variance such that the existing service road can remain in place.
(appeal from the decision of the Zoning Inspector)

For the property located at the following address: NW Corner of Springdale & Johnson Dr.

Present use of premises Vacant Land

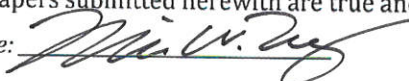
Briefly describe proposal A non conforming private road exists on the western portion of the lot. Applicant requests a variance so the existing private road can remain in place.

If this is an appeal, attach the following:

- (1) Statement of principal points on which appeal is based
- (2) Plans showing the variances requested.
- (3) Plat of Survey, which shows where the building for the variance request would be built.

I hereby depose that the above statements contained in the papers submitted herewith are true and correct.

Date: 11/30/18

Applicant Signature: 

< By signing this document you are giving the Zoning Board of Appeals members permission to view your property.>

Pewaukee Zoning Board of Appeals**RE: Blue Ribbon Self Storage I LLC****Background:**

The subject parcel is a 3.74 acre, non-rectangular parcel located at the corner of Johnson Dr and Springdale Rd in the City of Pewaukee ("Property"). The Property is part of the Bluemound East Industrial Park and borders Highway 94 to the north, Springdale Rd to the east, Johnson Dr to the south, and vacant land to the west. On May 17, 2018 the Plan Commission approved a zoning change to M-1, and granted the permitted use to be a single building, Class A climate controlled self-storage facility.

Approximately 4 feet from the western property line of the Property lies a service road ("Service Road") with an easement recorded for the benefit of the property owner to the west. The Service Road is used by the neighbor to the west for truck access to various loading docks on their site. Under an existing access easement agreement dated March 14, 2007 ("Easement"), the road is privately maintained and otherwise sees little to no third-party traffic. The road is approximately 450 feet in length, blacktopped, and in average condition.

Issue:

The City of Pewaukee Municipal Code Section 17.0423(g)(4) states "There shall be no driveway, parking or loading area within 25 feet of a street right-of-way or 15 feet of an adjacent property." The Service Road sits approximately 4 feet from the property line and therefore does not appear to meet the minimum required setback of 15 feet per the zoning code.

Standard of Review:

Pursuant to 17.1007 of the City of Pewaukee Municipal Code, the Zoning board of Appeals may grant a Zoning Variance so long as it finds that the following facts and conditions exist:

A. Preservation of Intent.

The purpose of a setback is to provide adequate space for safety, privacy, and consistency/uniformity within a neighborhood.

Safety: The project has been reviewed with the City of Pewaukee's Fire Chief. The Property is bordered to the north by Interstate 94 and to the east by Springdale Rd. The Fire Department has required access on the west side of the property along the entire length of the building for fire safety. While the road may be rarely traveled, the presence of a service road is required by the Fire Department.

Privacy: The Service Road is part of the negotiated Easement with terms and conditions otherwise adhered to by both landowners. The road has been in existence for a number of years and both neighbors want the Service Road and underlying easement to remain unchanged. Given the industrial nature of the Bluemound East Industrial Park and low traffic counts created by

both users, the fact that the Service Road lies within the setback does not materially affect either party.

Consistency and Uniformity of Appearance: The purpose of a setback requirement is often to maintain the consistency and aesthetic uniformity of appearance for a particular neighborhood. This site is in an industrial park with buildings of various size, design, and configurations. The Service Road and its location does not materially change the appearance, character, or consistency of the neighborhood. The project maintains the necessary 40% green space requirement and will ultimately enhance the Bluemound East Industrial Park when completed and properly landscaped. Also note that there are numerous examples within the industrial park where properties have asphalt-paved driveways or parking lots that do not adhere to the 15 foot setback requirement. For example, the property located immediately south of the Bakehouse property was built sometime between 2000 and 2005, well after our Service Drive was constructed, and it appears their eastern driveway is set back less than the required 15 feet from their neighbor's property line.

B. Exceptional Circumstances

There are a number of exceptional circumstances that necessitate the zoning variance. This site is incredibly challenging due to its shape, proximity to a highway/major roads, and difficult soil conditions.

First, the site is a corner site, surrounded by three roads. Considering the Fire Safety requirements, a service road or drive isle is required to run the length of the building, but outside of the "collapse zone" of the building. A curb cut on the far east side would be impracticable and potentially dangerous considering the proximity to the Johnson and Springdale intersection. The northeast corner is the natural low point for the site and the former location of an infiltration basin. A service road to the east could not extend far enough north due to the presence of the existing basin. The natural and life safety condition necessitate a service road being placed to the west side of the property. Within the western portion of the site, the setback requirement and designated "collapse zone" limit the area for the placement of a service road.

Second, the site is further plagued by challenging soil and geotechnical issues. The geotechnical engineering report concludes that site was once used for fill from a quarry. Parts of the site have as little as 4 inches of topsoil with 5 to 23ft of fill material within different parts of the site. Fill material was described as "highly variable" consisting of silt, sand, clay, concrete, and other foreign materials. The fill process does not appear to have been completed as part of an "engineered" fill process.

Third, in order to strictly comply with the zoning ordinance, the approved building location would necessitate a nearly 500-foot long concrete retaining wall. A retaining wall creates a disproportionate amount of construction risk and cost considering the relatively minor request of maintaining the service road's current location.

Fourth, the Property was part of the Town of Pewaukee when the Service Road was constructed. The Town was then incorporated into the City in 1999. It's likely that the zoning ordinance changed upon the incorporation making the Service Drive a legally nonconforming use for setback requirements. If this is the case, the Service Road should be allowed to stay in place as part of the Property's development.

Finally, in addition to the site conditions, the neighbor to the west is adamant that the road remains in its current place. While the Service Road sees low traffic, it is our understanding that the road is actively used by the neighbor for operations. An interruption in operations for the neighbor would occur should demolition and construction of a new road be required. In addition to site conditions, it is known among City Staff members that an ongoing conflict exists between the current land owners sharing the service road. Unfortunately, this has left the applicant/contract buyer in a situation where the neighbor to the west has gone so far as to threatening litigation should the Service Road be moved.

C. Economic or Financial Hardship and Self-Imposed Hardship

The Service Road and site conditions have existed for over 20 years. The applicant and current owner have not improved the site in any way. Development of any kind on this site requires this issue to be resolved. While economics alone are not the basis for granting a zoning change, the Zoning Board of Appeals should take note of the incredibly high cost associated the demolition of a service road of this size, relocation of the Service Road a mere few feet to the east, and the additional need to construct a retaining wall on the eastern portion of the property should this variance be denied. These costs are clearly excessive considering the relatively minor deviation from the code.

D. Preservation of Property Rights

The Service Road only impacts two parties. An easement and agreement were recorded in 2007 that runs with the land. The parties at the time of contracting as well as all current parties want the Service Road to remain in place. Again, the neighboring party has gone so far as to threaten "years of litigation" should the road be demolished and relocated.

E. Absence of Detriment

As previously stated, the Service Road lies between two parcels and only affects two parcels. It is a private road and both land owners and the applicant want this Zoning Appeal to be granted. Development of this site will turn a vacant and unkept lot in an industrial park to a functioning business serving the community and adding to the tax base.

Conclusion:

Based on the foregoing, Applicant respectfully requests that the Zoning Board of Appeals grants this application such that the existing Service Road can remain in place.

2000 Aerial



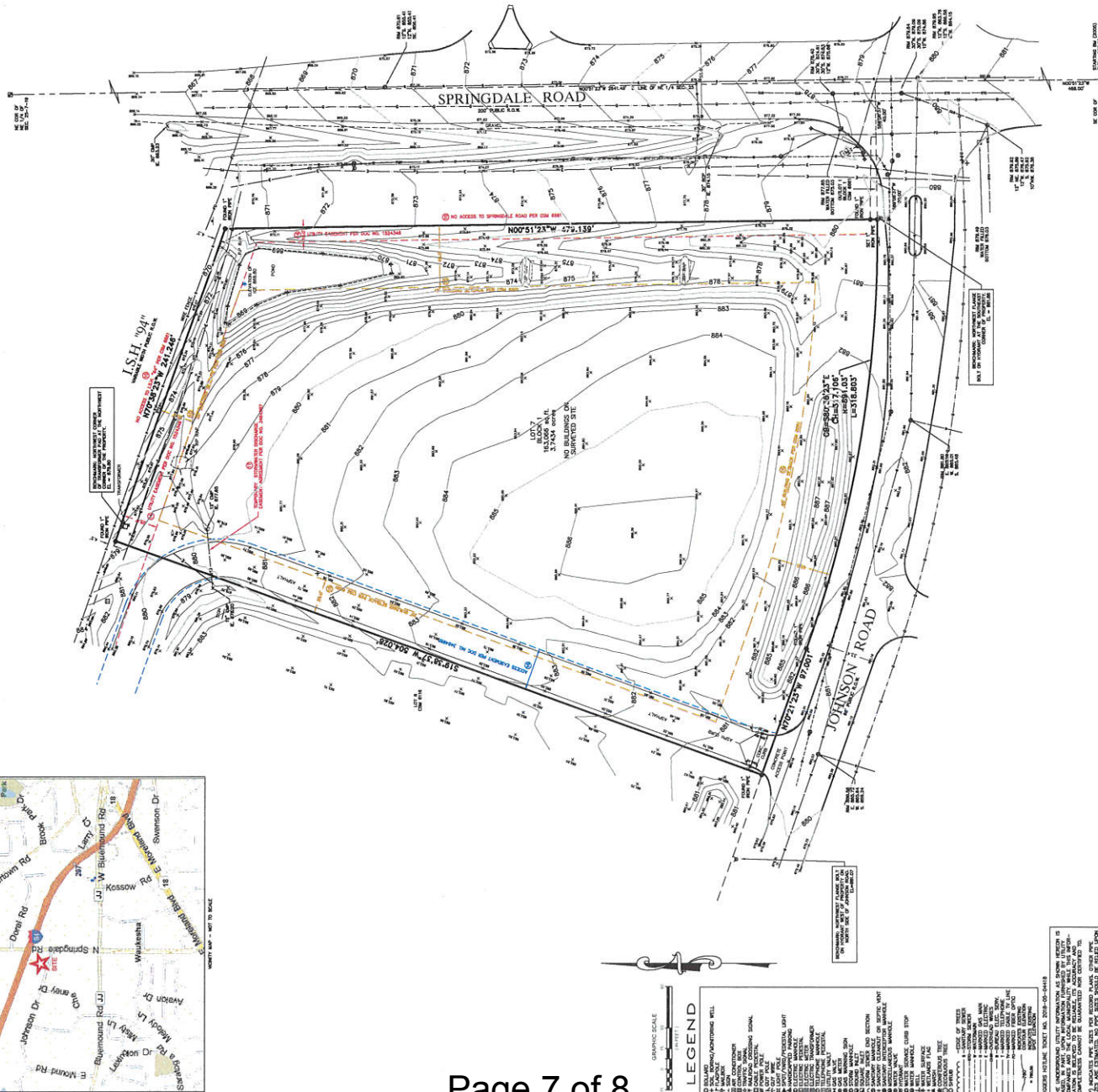
2005 Aerial



TOPOGRAPHIC MAP

Studied on Johnson Road, in the City of Presawake, Wisconsin, Wisconsin.
 Lot 7, Block 1 of Certified Survey Map No. 6661, recorded January 17, 1992, in Volume 59 of Certified Survey Maps, at pages 255 to 257, as Document No. 1759550, being part of the Southeast 1/4 of the Northeast 1/4 of Section 20, Town 7 North, Range 19 East, in the City of Presawake, County of Milwaukee, State of Wisconsin.
 Survey No. 16124-004C.
 Date: February 15, 2015.

Blue Room Management, LLC



ALTA/NSPS LAND TITLE SURVEY

Situated on Johnson Road, in the City of Pewaukee, Waukesha County, Wisconsin.

Lot 7, Block 1 of Certified Survey Map No. 6661, recorded February 17, 1992, in Volume 55 of Certified Survey Maps, on pages 255 to 257, as Document No. 1705985, being a part of the Southeast 1/4 of the Northeast 1/4 of Section 25, Town 7 North, Range 19 East, in the City of Pewaukee, County of Waukesha, State of Wisconsin.

Prepared for: Blue Ribbon Management, LLC

Survey No. 161204-RMK

A. Basis of Bearings

Bearings are based on the East line of the Northeast 1/4 of Section 25-7-19, which is assumed to bear North 00°51'23" West.

B. Title Commitment

This survey was prepared based on First American Title Insurance Company title commitment number NCS-886951-MKE, effective date of January 18, 2018, which lists the following easements and/or restrictions from schedule B-II:

1-3, 5, 8, 10. **Visible evidence shown, if any.**

4, 5-8, 19-20. **Not survey related.**

11. Access restrictions as set forth in Finding, Determination and Declaration by the State Highway Commission of Wisconsin establishing certain Controlled-Access highways recorded September 28, 1951, in Volume 555, page 394, as Document No. 356777. **Does not affect site by location - general in nature, cannot be plotted.**

12. Covenants and restrictions as set forth in Warranty Deed recorded October 10, 1955, in Volume 683, page 121, as Document No. 425580 and re-recorded November 9, 1955, in Volume 686, page 233, as Document No. 427700. **Does not affect site by location - not shown.**

13. Terms, restrictions, conditions, provisions as set forth in Bluemound East Industrial Park Declaration of Development Standards and Protective Covenants recorded January 11, 1988, Reel 968, Image 534, as Document No. 1463360. **Affects site by location - general in nature, cannot be plotted.**

14. Utility Easement granted to Wisconsin Electric Power Company and Wisconsin Bell, Inc. recorded March 1, 1989, Reel 1087, Image 739, as Document No. 1524348. **Affects site by location - shown.**

15. Building setback line, access restriction as set forth on Certified Survey Map No. 6661 recorded as Document No. 1705985. **Affects site by location - shown.**

16. Terms, conditions, restrictions, covenants, easements and provisions relating to the use and maintenance of Declaration of Access Easements by and between Life Investors Pewaukee, LLC, Johnson Springdale, LLC, Life Investors Rye Chip, LLC and Rye Chip, LLC recorded March 14, 2007 as Document No. 3464985. **Affects site by location - shown.**

17. Terms, conditions, restrictions and provisions relating to the use and maintenance of Temporary Stormwater Discharge Easement Agreement by and between Life Investors Pewaukee, LLC, Johnson Springdale, LLC, B & G Realty, LLC, Marcus Conisat, LLC and Marcus Cinemas of Wisconsin, LLC recorded March 14, 2007 as Document No. 3464987. **Affects site by location - shown.**

18. Use restrictions as set forth in Real Estate Purchase and Sale Agreement dated January 12, 2018. **May affect site by location - Agreement not provided.**

C. Flood Note

According to flood insurance rate map of the City of Pewaukee, community panel number 55133C0218G, effective date of November 05, 2014, this site falls in zone X (areas determined to be outside the 0.2% annual chance floodplain).

D. Parking Spaces

There are no regular and no handicapped parking spaces marked on this site.

E. Municipal Zoning

A Zoning Report was not provided for this property.

F. Notes

There is no evidence of recent earth moving work, building construction or building additions observed in the process of conducting the fieldwork.

There is no proposed changes in street right of way lines, if such information is made available to the surveyor by the controlling jurisdiction observed in the process of conducting the fieldwork.

There is no evidence of recent street or sidewalk construction or repairs observed in the process of conducting the fieldwork.

There is no evidence of wetland flags on the site observed in the process of conducting the fieldwork.

Due to existing snow cover, there may be improvements on the site that were not visible or observed as of the date of this survey.

Due to a pond on this site there maybe wetland as well.

To: Blue Ribbon Management LLC, a Wisconsin limited liability company and First American Title Insurance Company

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS and includes items 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(c), 8, 9, 11, 16, 17, 18, 19 and 20 of Table A thereof. The fieldwork was completed on February 14, 2018.

Date of Plat or Map: February 15, 2018

Stephan G. Southwell

Stephan G. Southwell
Professional Land Surveyor
Registration Number 1939
stephensouthwell@rsmsmith.com



raSmith
CREATIVITY BEYOND ENGINEERING
rasmith.com

16745 W. Bluemound Road
Brookfield, WI 53005-5938
(262) 781-1000
rasmith.com

SHEET 1 OF 1