

Building Services

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

ZONING BOARD OF APPEALS MEETING NOTICE AND AGENDA

Wednesday, September 7, 2022

6:00 PM

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

-
1. Call to Order and Pledge of Allegiance
 2. Discussion and possible action to approve the Zoning Board of Appeals minutes dated July 27, 2022
 3. **PUBLIC HEARING**, discussion and possible action regarding the request of Brian and Sarada Lipman for a variance to allow a concrete sport court within the required rear yard setback upon property located at N40W23609 William Way, Pewaukee, WI 53072, Tax Key No. 0871019. The subject property is zoned Rs-4 Single-Family Residential District. The application requests a variance from Section 17.0910 to allow paving to be setback as close as 7.7-feet to the rear property line, opposed to the required minimum setback of 15-feet.
 4. **PUBLIC HEARING**, discussion and possible action regard the request of William P. Russo for a variance to allow for the construction of a detached garage upon property located at N40W27535 Glacier Road, Pewaukee, WI 53072, Tax Key No. 0890999011. The subject property is zoned Rs-2 Single-Family Residential District, UC Upland Conservancy District, and SO Shoreland Overlay District. The application requests a variance from Section 17.0406f. to allow for the construction of a 1,200 square foot detached accessory structure with a 25-foot front/street yard setback and 10-foot rear yard setback, opposed to the minimum required setbacks of 45-feet and 25-feet, respectively.
 5. Adjournment

Kelly Tarczewski
Clerk/Treasurer

September 2, 2022

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 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: September 7, 2022

DEPARTMENT: Zoning Appeal

PROVIDED BY:

SUBJECT:

Discussion and possible action to approve the Zoning Board of Appeals minutes dated July 27, 2022

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

ZBA Minutes 7-27-22

In attendance:

T. Matt, J. Tredwell and K. Marlin. R. Welcenbach was absent and excused.

Also Present:

City Planner & Community Development Director N. Fuchs and Deputy Accountant/Treasurer N. McMillian.

1. Call to Order and Pledge of Allegiance

Ms. Marlin called the meeting to order at 6:00 p.m.

2. Discussion and possible action to approve the Zoning Board of Appeals minutes dated October 5, 2021

A motion was made and seconded (T. Matt, J. Tredwell) to approve the meeting minutes dated October 5, 2021. Motion Passed: 3-For, 0-Against.

3. **PUBLIC HEARING**, discussion and possible action regarding the request of Phillip Mattix and Sheila Stafford for a variance related to the construction of a detached garage upon property located at N29W27476 Peninsula Drive, Pewaukee, WI 53072, Tax Key No. 0933050. The subject property is zoned Rs-7 Single-Family Residential District, F-1 Floodplain District and SO Shoreland Overlay District. The application requests a variance from Section 17.0411a. and 17.0410f.(1) to allow for the construction of a 22-foot by 22-foot (484 square feet) detached accessory building with a front yard setback ranging from 14.8' to 15.2'. Additionally, the application requests a variance from Section 17.0436d. to exceed the maximum lot coverage requirement of the Shoreland Overlay District. This public hearing is being held pursuant to the requirements and standards of Section 17.1300 of the City of Pewaukee Zoning Ordinance.

Ms. Marlin opened the public hearing.

Ms. McMillian swore in the applicant, Mr. Phillip Mattix and City Planner & Community Development Director, Mr. Fuchs.

Mr. Mattix stated he was asking for two variances; closeness to Peninsula Road and a hardscape percentage. Ms. Marlin confirmed that those were the two variances being discussed.

Ms. Marlin closed the public hearing.

Mr. Fuchs stated the staff report outlines the two requests that the applicant just mentioned. After receiving a revised survey of the property, Mr. Fuchs reviewed the calculations and stated the structures meet the requirement with 16.96%, compared to the allowable amount of 20%. However, for impervious surfaces, the allowable amount is 7.5% and the applicant is at 10.76%. Mr. Fuchs stated the allowable total coverage for structures and surfaces together would be 27.5% and the applicant would be at 27.72%. Mr. Fuchs stated as a whole, it is not a significant difference, but it is still exceeding the ordinance by .22%.

Mr. Fuchs stated staff does recommend approval. The lot does not currently have a garage and the garage location requested is similar to other properties on Peninsula Drive. He stated Peninsula Drive is a unique street with the lake on both sides, and with the width of the road, there is limited space. There is a building separation requirement of ten feet. He stated he would want the applicant to push the garage to be within those ten feet. He felt the size of the garage was reasonable.

Ms. Marlin questioned if the garage was one story. Mr. Mattix confirmed the proposed garage is one story.

Ms. Marlin reminded everyone of the analysis of the request; an unnecessary hardship due to conditions that are unique to the property and approval would create no harm to the public interest. She stated there is an unnecessary hardship because there is no garage at all. She stated the lot itself is a very odd shaped lot with no room to begin with.

Mr. Matt stated one thing he did not like was how close the garage was to the street. He stated he measured his car and it is 17 feet and some trucks are 22 feet, so they would stick out in the street. He stated he did look at an attached garage as the alternate, but then the well is in the way. He stated he does support the staff recommendation.

Ms. Marlin stated the idea of keeping the garage further back from the street is safety for people backing out of their garages. She stated luckily the applicant is on Peninsula Drive and it is not a high traffic area.

A motion was made and seconded (T. Matt, J. Tredwell) to approve a variance from Section 17.0411a. and 17.0410f.(1) to allow for the construction of a 22-foot by 22-foot (484 square feet) detached accessory building with a front yard setback ranging from 14.8' to 15.2' and within a 10-foot building separation requirement and a variance from Section 17.0436d. to exceed the maximum lot coverage requirement of the Shoreland Overlay District.

Motion Passed: 3-For, 0-Against.

4. Adjournment

A motion was made and seconded (T. Matt, J. Tredwell) to adjourn the meeting at 6:08 p.m.

Motion passed: 3-For, 0-Against.

Respectfully Submitted,

Nadine McMillian
Accounting & Payroll Specialist

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

DATE: September 7, 2022

DEPARTMENT: Zoning Appeal

PROVIDED BY:

SUBJECT:

PUBLIC HEARING, discussion and possible action regarding the request of Brian and Sarada Lipman for a variance to allow a concrete sport court within the required rear yard setback upon property located at N40W23609 William Way, Pewaukee, WI 53072, Tax Key No. 0871019. The subject property is zoned Rs-4 Single-Family Residential District. The application requests a variance from Section 17.0910 to allow paving to be setback as close as 7.7-feet to the rear property line, opposed to the required minimum setback of 15-feet.

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

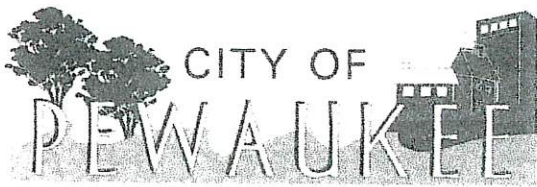
Description

Lipman Application

Lipman Photo

Lipman Updated Plat of Survey

Lipman 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: concrete pad for sport court and distance from property line.

Legal description of property to be rezoned – Please attach.

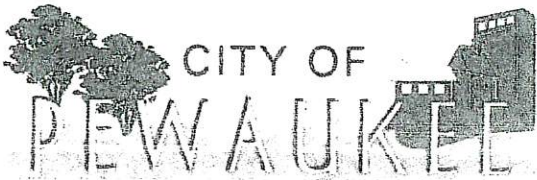
Common property description or name: Home Residence (private)
 Property Address: N40W23609 William Way Tax Key Number(s): _____
 Property owner(s) (Full Legal Name): Brian and Sarada Lipman
 Owner's Address: N40W23609 William Way City/State/Zip: Pewaukee WI 53072
 Phone: cell Brian 414-418-5927 Email: blipman@aol.com
cell Sara 414-412-0235 spelipman@aol.com

Applicant (Full Legal Name):
 Name: Brian T. Lipman
 Company: _____
 Address: N40W23609 William Way
 City/State/Zip: Pewaukee WI 53072
 Phone: 414-418-5927
 Email: blipman@aol.com

Contact Person (Full Legal Name):
 Name: Brian T. Lipman
 Company: _____
 Address: N40W23609 William Way
 City/State/Zip: Pewaukee WI 53072
 Phone: 414-418-5927
 Email: blipman@aol.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:
 - \$400.00
 - 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:
 - A written project narrative detailing the request and site & building improvements.
 - 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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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: Brian T. Lipman
 NAME & TITLE (PRINT): Brian T. Lipman
 SIGN AND DATED this 7-31-22 day of July, 2022.

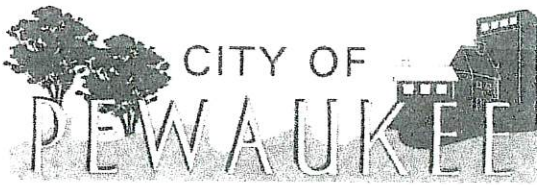
PROPERTY OWNER'S SIGNATURE: Brian T. Lipman
 NAME & TITLE (PRINT): Brian T. Lipman
 SIGN AND DATED this 31 day of July, 2022.

PROPERTY OWNER'S SIGNATURE: Sarada Lipman
 NAME & TITLE (PRINT): Sarada Lipman
 SIGN AND DATED this 31 day of July, 2022.

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: 7-31-22 Property Owner: Brian & Sara Lipman
 Property Address: N40W23609 William Way, Pewaukee, WI 53072

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.

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.

Please See Attached Letter

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.

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.



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Please see attached letter

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.

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.

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.

Dear Members of the Variance Committee,

Unfortunately, we had not known about any set-back regulations to our property when we designed and submitted our landscape plans along with the backyard sport court layout to the Swan View Farms' Architectural Control Committee. The committee subsequently approved our plans, including the sport court, without any indication of set-back issues.

We proceeded with the plans, hiring a landscaper and concrete contractor, who were both unaware of any setback requirements, so no permit was ever submitted for the poured slab.

The backyard sport area is drawn on our plat of survey for your review. Currently, the back of the concrete slab is within 7.7 feet on the southwest side of the lot and 17 feet on the southeast side of the lot. The west side of the slab is 15 feet from our property line and 75 feet from the east side of the lot.

Additionally, please note the back of our property faces an out lot, inhabited by many trees, where no neighbor is affected by the sport area in our yard. We also added additional evergreens on the west and south side of the sport area to further camouflage the space. Beyond that, we are planning to use green tile on the sport floor to blend with the grass and create a less noticeable deviation from the overall landscape aesthetics.

We apologize for not knowing setback regulations existed for our Pewaukee home's backyard. If we had known, we would not have even started what we now have. Yet we currently have a concrete slab in our backyard with trees already planted on its border. We are thus hoping the committee would consider what we outlined above and decide to kindly grant us a variance.

Thank you for your time in this matter, and we look forward to your response.

Sincerely,

Brian and Sara Lipman

PLAT OF SURVEY

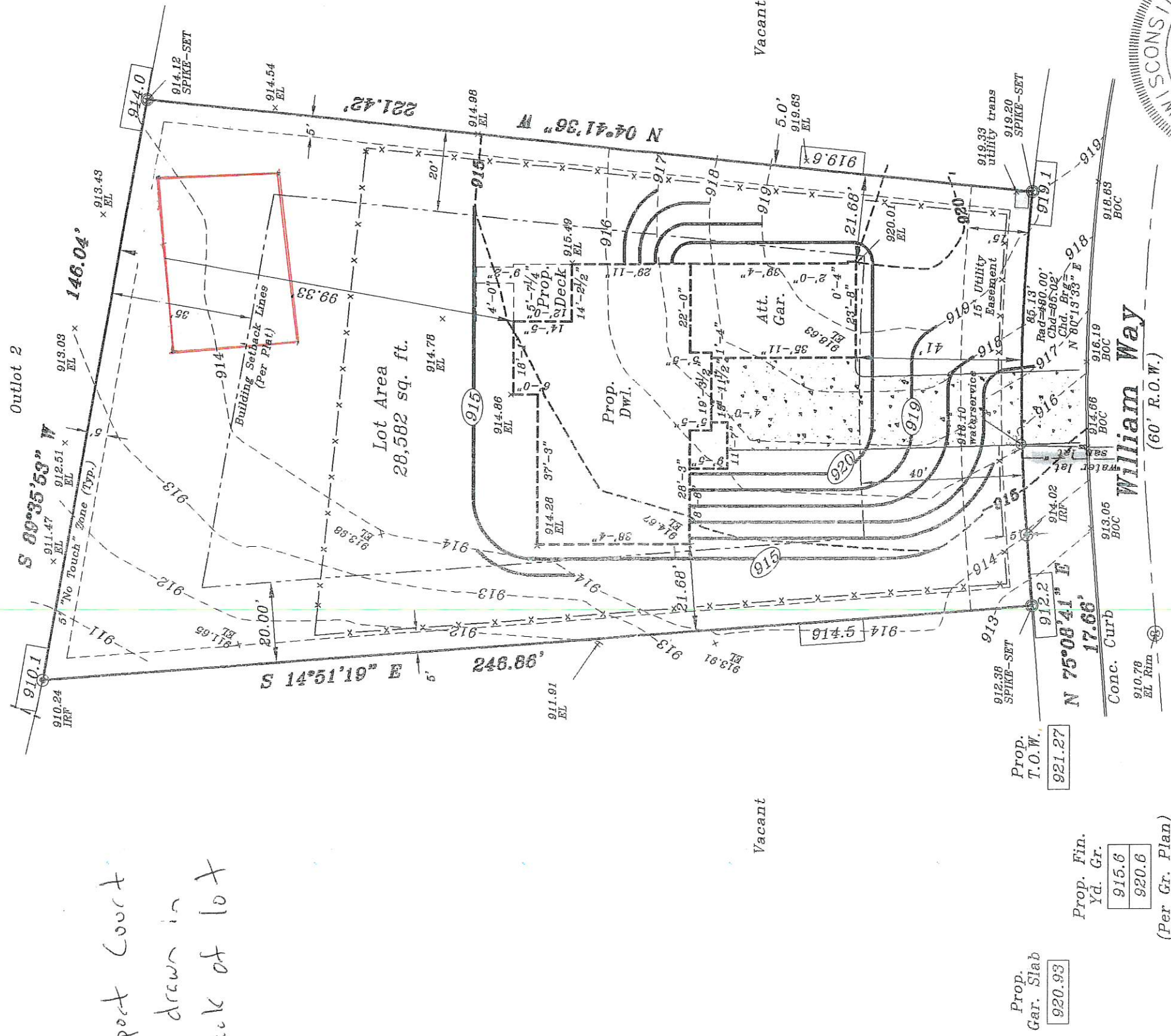
LOCATION: William Way, Pewaukee, Wisconsin

LEGAL DESCRIPTION: Lot 19 in SWAN VIEW FARMS, being a Revision of Lot 1 of Certified Survey Map No. 12080, being a part of the Southwest 1/4 and all of the Northwest 1/4 and Southeast 1/4 of the Southwest 1/4 of Section 2, Township 7 North, Range 19 East, in the City of Pewaukee, Waukesha County, Wisconsin.

January 12, 2021 (Drawing Only)
January 21, 2021 Staked Dwelling
February 20, 2021 Revised Grading Plan
March 4, 2021 Revised Drawing

Survey No. 112205-S

Spot Court
is drawn in
back of lot



Proposed finished yard, 1st floor or top of foundation grade shown on this drawing is a suggested grade and should be verified by the owner, builder or municipality

METROPOLITAN SURVEY SERVICE, INC.

PROFESSIONAL LAND SURVEYORS

9415 West Forest Home Avenue, Suite 202
Hales Corners, Wisconsin 53130
PH. (414) 529-5380
survey@metropolitansurvey.com
www.metropolitansurvey.com

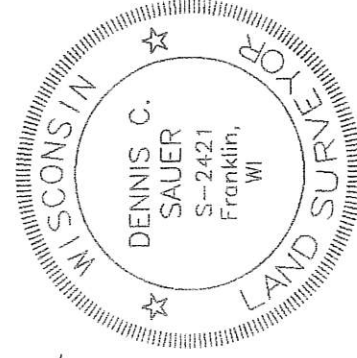
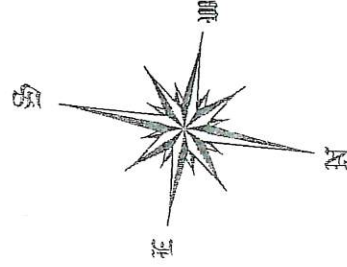
⊙ — Denotes Iron Rod Found
⊙ — Denotes Spike Set

000.0 — Denotes Proposed Grade
—x—x—x— Denotes Proposed Silt Screen

---920--- Denotes Existing Contour
⊙920⊙ Denotes Proposed Contour



(IN FEET)
1 inch = 30 ft.



I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY, ITS EXTERIOR BOUNDARIES, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS AND ROADWAYS AND VISIBLE ENCROACHMENT, IF ANY.

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM THE DATE HEREOF.

Dennis C. Sauer

Dennis C. Sauer

Professional Land Surveyor S-2421

SIGNED

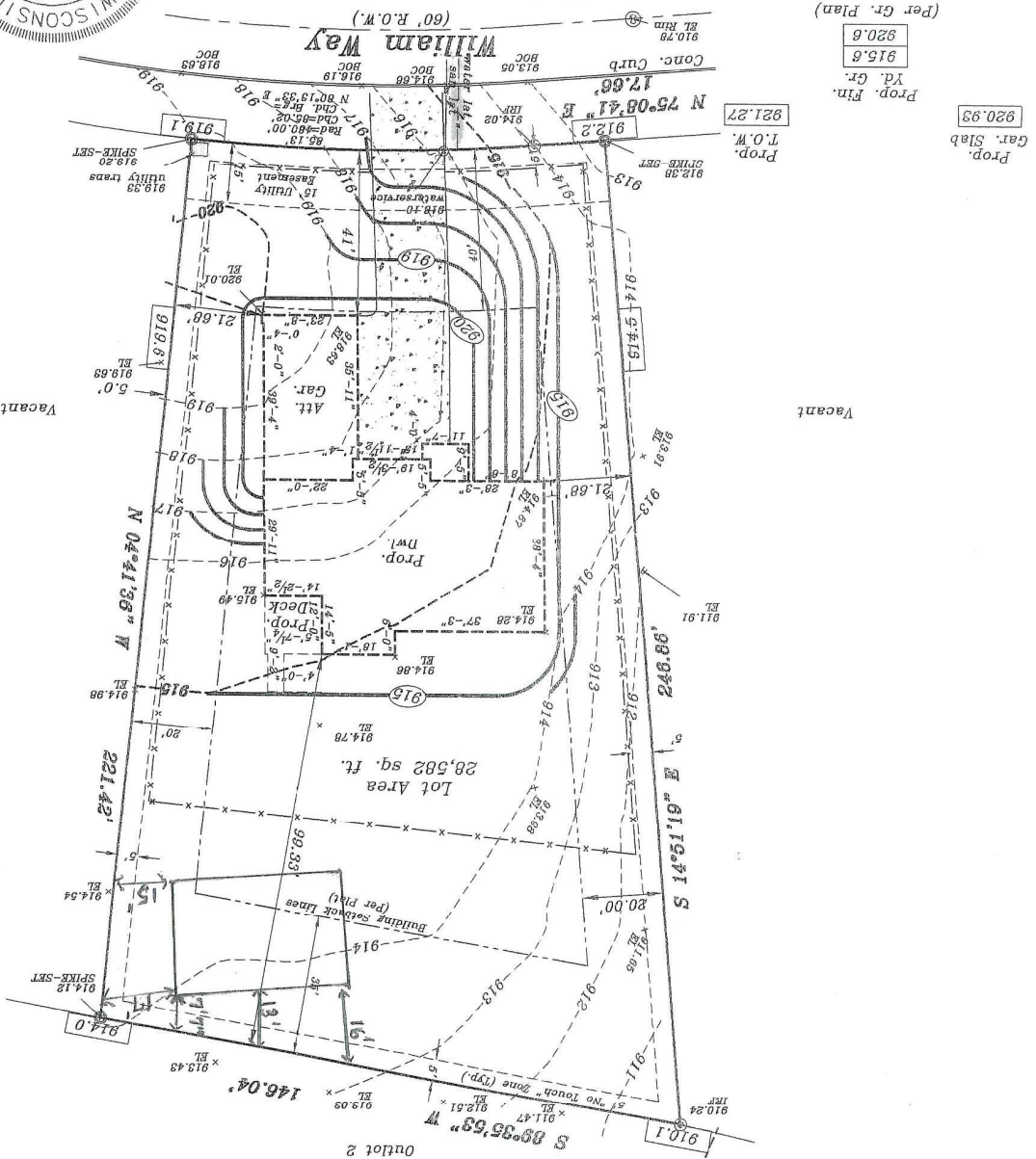


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Survey No. 112205-S

January 12, 2021 (Drawing Only)
 January 21, 2021 Staked Dwelling
 February 20, 2021 Revised Grading Plan
 March 4, 2021 Revised Drawing



Prop. Car. Slab 920.93

Prop. Fin. Yd. Gr. 915.6

(Per Gr. Plan) 920.6

Proposed finished yard, 1st floor or top of foundation grade shown on this drawing is a suggested grade and should be verified by the owner, builder or municipality.

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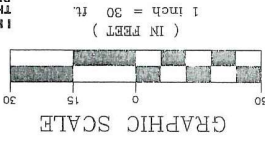
www.metropolitansurvey.com

Denotes Iron Rod Found

Denotes Spike Set

Denotes Proposed Grade

Denotes Proposed Silt Screen



Denotes Existing Contour
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Professional Land Surveyor S-2421

Dennis C. Sauer
 Sauer

SIGNED



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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 September 7, 2022

Date: August 30, 2022

Project Name: Lipman Variance Request

Project Address/Tax Key No.: N40W23609 William Way/PWC 0871019

Applicant: Brian T. Lipman and Sarada Lipman

Property Owner: Brian T. Lipman and Sarada Lipman

Current Zoning: Rs-4 Single-Family Residential District

2050 Land Use Map Designation: Low-Medium Density Residential (½ AC. – 2 AC. / D.U.)

Use of Surrounding Properties: Single-family residential to the north, south, east, and west

Project Description/Analysis:

The applicants filed a Variance Application requesting a variance from Section 17.0910 to allow paving for a sport court that is 44-feet by 30-feet (1,320-square feet) to be setback as close as 7.7-feet to the rear property line.

The subject property is zoned Rs-4 Single-Family Residential District which has a rear yard setback of 35 feet. However, Section 17.0910 grants an exception to the rear yard setback for residential decks, patios, and in-ground pools (i.e., pavement and impervious surfaces). This exception allows for a minimum setback of 15-feet from the rear property line.

The applicant is proposing a green tiled sport court in the rear yard that is 7.7-feet from the southwest rear lot line. As detailed within the applicant's submittal, the property owner was unaware of the setback requirement and already installed the sport court. The applicant is now requesting that the sport court be allowed to remain in its current location.

The Zoning Board of Appeals must review the application materials provided as well as Section 17.1007 of the City's Zoning Code, which outlines the factors the Board must consider in determining whether to grant or deny a variance request. The applicant has referenced their project narrative as a response to these findings.

Recommendation:

Staff recommends denial of the variance. Staff does not find that the Findings of Section 17.1007 have been met. Staff contends that there is reasonable use of the property without approval of the requested variance, the situation is self-imposed, and there are no unique or unusual circumstances present on the property. Furthermore, there is sufficient area to locate the sport court in compliance with the required setbacks.

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

DATE: September 7, 2022

DEPARTMENT: Zoning Appeal

PROVIDED BY:

SUBJECT:

PUBLIC HEARING, discussion and possible action regard the request of William P. Russo for a variance to allow for the construction of a detached garage upon property located at N40W27535 Glacier Road, Pewaukee, WI 53072, Tax Key No. 0890999011. The subject property is zoned Rs-2 Single-Family Residential District, UC Upland Conservancy District, and SO Shoreland Overlay District. The application requests a variance from Section 17.0406f. to allow for the construction of a 1,200 square foot detached accessory structure with a 25-foot front/street yard setback and 10-foot rear yard setback, opposed to the minimum required setbacks of 45-feet and 25-feet, respectively.

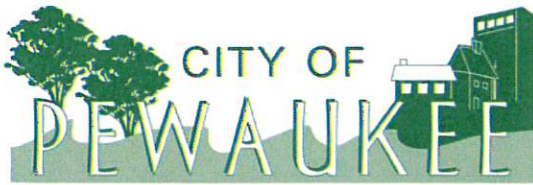
BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description
Russo Application
Russo - Staff Report
Russo Updated Site Plan



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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: Front and rear yard setback requirements for a detached garage at N40 W27535 Glacier Road, Pewaukee, WI

Legal description of property to be rezoned – Please attach.

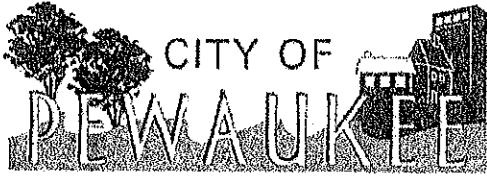
Common property description or name: Lot 3 a Outlot 3 of CSM 11923
Property Address: N40 W27535 Glacier Road **Tax Key Number(s):** PWC 0890999011
Property owner(s) (Full Legal Name): William P. Russo and Tosca S. Russo
Owner's Address: 226 Main St. **City/State/Zip:** Delafield, WI 53018
Phone: 262-844-7580 **Email:** BillR@tiletools.com

Applicant (Full Legal Name):
Name: William P. Russo
Company: _____
Address: 226 Main St.
City/State/Zip: Delafield, WI 53018
Phone: 262-844-7580
Email: BillR@tiletools.com

Contact Person (Full Legal Name):
Name: William P. Russo
Company: _____
Address: 226 Main St.
City/State/Zip: Delafield, WI 53018
Phone: 262-844-7580
Email: BillR@tiletools.com

Variance submittals must include and be accompanied by the following:

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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: _____

William P. Russo

NAME & TITLE (PRINT): William P. Russo

SIGN AND DATED this 3rd day of August, 2008.

PROPERTY OWNER'S SIGNATURE: _____

William P. Russo

NAME & TITLE (PRINT): William P. Russo

SIGN AND DATED this 3rd day of August, 2008.

PROPERTY OWNER'S SIGNATURE: _____

Tosca S. Russo

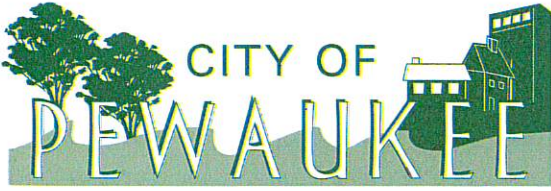
NAME & TITLE (PRINT): Tosca S. Russo

SIGN AND DATED this 3rd day of August, 2008.

City Staff-

RECEIVED at City Hall by: _____ on _____

Fee paid: \$ _____ Date: _____



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

VARIANCE FINDINGS FORM

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

Date: Aug 3, 2022 Property Owner: William P. Russo & Tosca S. Russo
 Property Address: N40 W27535 Glacier Road, Pewaukee, WI

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.

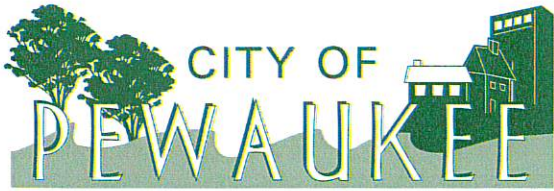
See attached

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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-
- 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.

Not Applicable

- 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.

Not Applicable

Variance Findings Form - Russo Variance Request for N40 W27535 Glacier Road, Pewaukee

The property owned by William and Tosca Russo located at N40 W27535 Glacier Road, Pewaukee, aka Lot 3 and Outlot 3 of CSM 11923, is a vacant parcel of land approximately 2.2 acres in size (the "Property). Because the lot is situated at the end of Hillside Drive and not parallel to the road, it is considered a "corner lot" and was designated to have 2 front yards, each with 45-foot setbacks on the east and south boundary lines of the Property with a rear yard set back of 35 feet on the north boundary line and a 25-foot setback at the west boundary line. We would like to construct a detached garage on the Property in the northeast corner of the Property and are requesting a variance to the 45-foot setback along the east Property line (down to 25 feet) and a variance to the 35-foot setback to the along the north Property line (down to 10 feet). This variance request is necessary to accomplish the following:

1. Hold back the grades in order to construct a "T" turn around on our Property at the end of Hillside Drive for City snow removal trucks etc., which the City required in connection with approval of the CSM establishing the Property.
2. Allow the access driveway to the new single-family home we will be constructing to be located on the flattest grade leading to the building site and allow for the least amount of tree removal/disturbance.
3. Provide the best visual screening of the detached garage from the neighboring properties.

STATEMENTS IN SURPPORT OF VARIANCE REQUEST:

a. The use of the Property will be consistent with intended use. The Property is planned for and allows a single-family home and detached garage to be built on it; we intend to build a single-family home and detached garage that abides by all City Ordinances and Requirements except for the requested setback variances.

b. The unique and challenging topography of the Property presents exceptional and unusual circumstances with respect to the location of the proposed detached garage. Except for the proposed location of the single-family home (which is on the top of a flat treeless knoll on the west side of the Property) the Property is heavily wooded and slopes dramatically. There is a one area that lends itself to establish a driveway from Hillside Drive to the homesite, which snakes through large existing trees. There is only one feasible place to locate a detached garage on this site and it is situated in the northeast corner of the Property. Without the requested setback variance for the garage (i.e. 25 feet vs 45 feet for the east property line setback, and 10 feet vs. 35 feet for the north property line set back) the garage would encroach into the proposed driveway (see the sketch/map attached hereto the "Map"). Due to the grade in this area of the Property, it is impossible to move the driveway to the south. In addition, the construction of the garage in the proposed location will greatly aid in the grading work that needs to be done to create a flatter surface for the construction of the "T" turnaround as shown on the Map.

c. The challenging topography of the Property and large tree locations, are not self-imposed hardships. The variance relief requested is based upon feasibility, not financial hardship.

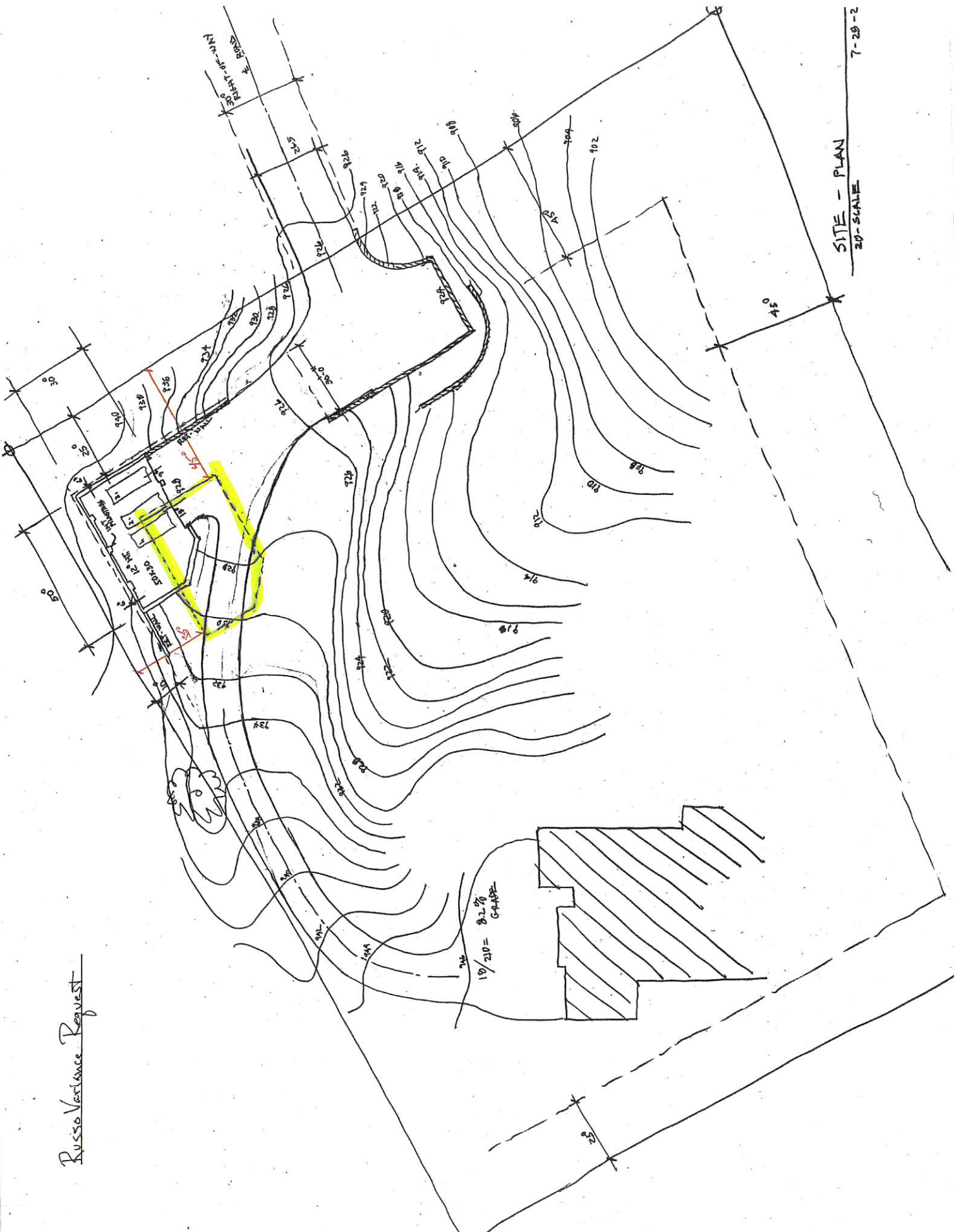
d. The limitations and challenges of the topography on the Property severely hinders the preservation and enjoyment of substantial property rights. Even though the Property is over 2 acres in size, we simply do not have any options on where to locate the detached garage and the proposed single-family home. There are 2 small building envelopes that work for these structures. We can fit the single-family home improvements with no variance requirements, but in order to construct the "T" turn around at the end of Hillside Drive on the Property and keep the driveway located along the flattest strip of land leading to the homesite, the requested setback variances for the garage are necessary.

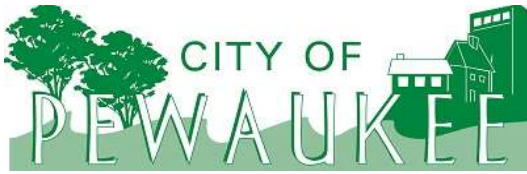
e. The granting of the requested variance will not create a detriment to any of the adjacent properties. On the contrary, the variance would make the garage less visible to the adjacent properties, which makes the proposed location more beneficial to the neighbors.

f. Not Applicable

g. Not Applicable

Russo Variance Request





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REPORT TO THE ZONING BOARD OF APPEALS

Meeting of September 7, 2022

Date: August 30, 2022

Project Name: Russo Variance Request

Project Address/Tax Key No.: N40W27535 Glacier Road/PWC 0890999011

Applicant: William P. Russo

Property Owner: William P. Russo and Tosca S. Russo

Current Zoning: Rs-2 Single-Family Residential District, UC Upland Conservancy District, & Shoreland Overlay District

2050 Land Use Map Designation: Floodplains, Lowland & Upland Conservancy and Other Natural Areas

Use of Surrounding Properties: Single-family residential to the north and east, CP Rail System to the south, and lowland conservancy to the west.

Project Description/Analysis:

The applicants filed a Variance Application requesting a variance from Section 17.0406f. and 17.0434f. to allow for the construction of a 1,200 square foot detached accessory structure with a 25-foot front/street yard setback and 10-foot side yard, opposed to the minimum required setbacks of 45-feet and 30-feet.

The subject property is zoned Rs-2 Single-Family Residential District, UC Upland Conservancy District, & Shoreland Overlay District. The property currently is vacant with the applicants planning to construct a new home. The new home will include a 3-car attached garage.

The applicant is proposing a 1,200 square foot accessory structure located in the northeast corner of the lot. The parcel is considered a corner lot, which means that it has no rear yard and instead has two front yards and two side yards. Thus, the setbacks for the proposed accessory structure are 45-feet for the front yard setbacks and 25-feet for the side yard setbacks within the Rs-2 District portion of the site and 30-feet for the UC District portion of the site. Note that a strip of primary environmental corridor runs along the right or east side of the property. Slightly less than half of the garage is located within the UC portion of the site.

The Zoning Board of Appeals must review the application materials provided as well as Section 17.1007 of the City's Zoning Code, which outlines the factors the Board must consider in determining whether to grant or deny a variance request. The applicant has provided responses to these findings for review.

Recommendation:

In review of the applicant's narrative, staff acknowledges and agrees that the topography of the lot is extremely sloped, and the buildable areas onsite are limited. Furthermore, a detached garage up to 1,200 square feet is a permitted use on a single-family residential parcel.

With that said, staff recommends consideration of a smaller garage to better conform to the required setbacks. Furthermore, it should be considered whether grades would allow at least a portion of the driveway adjacent to the garage to be shifted south to comply with required setbacks.

