



Zoning Board of Appeals Agenda

Wednesday, July 09, 2025 at 6:30 PM

Columbus City Hall – 105 N. Dickason Boulevard

Roll Call

Notice of Open Meeting

New Business

1. Election of Chair, Vice-Chair, and Secretary
2. Approval of Agenda
3. Review Board of Review Decision Making Process
4. Public Hearing: Lamps Landing requesting Side yard set-back reduction on north side of Lot 18, Cardinal Heights Plat
5. Discussion/possible action regarding variance request from Lamps Landing for Lot 18 of Cardinal Heights.
6. Public Hearing: Set back reduction for parking lots from lot line from 5 feet to zero feet from KO Properties of Columbus LLC/Debbie Oldenburg
7. Discussion/possible action regarding the request for setback distance reduction for parking lots from KO Properties of Columbus LLC.

Adjourn



Agenda Item Report

Meeting Type: Zoning Board of Appeals

Meeting Date: July 9, 2025

Item Title: Side yard set-back reduction on north side of Lot 18, Cardinal Heights Plat

Submitted By: Mike Kornmann, Director of Community and Economic Development

Detailed Description of Subject Matter:

Applicant is requesting a reduction of the side yard setback to 5.6 feet.

Attached is the application and decision form. If you decide to grant the request all three criteria must be met on the form.

List all Supporting Documentation Attached:

- Variance Application- Obrien Court/Lamps Landing
- Variance Decision Form
- Zoning code section related to variance request
- Cardinal Heights Plat

Action Requested: Decision utilizing the Variance Decision Form.

BOARD OF APPEALS - CITY OF COLUMBUS

VARIANCE DECISION FORM – GENERAL ZONING

Applicant: Lamps Landing

Applicant request: Reduction of side setback to 5.6 feet on the north side of Lot 18 in the Cardinal Heights Plat.

The BOA may only grant a variance if the applicant provides evidence that they meet all three legal standards below.

1. **Unnecessary hardship** (check area variance or use variance)
 - ☐ **For an area variance**, unnecessary hardship exists when, ordinance standards that are strictly applied would unreasonably prevent a permitted use of a property, or render conformity with such standards unnecessarily burdensome. Circumstances of an applicant, such as a growing family or desire for a larger garage are not legitimate factors in deciding variances. A personal inconvenience is not sufficient to meet the unnecessary hardship standard. (*Snyder v. Waukesha County Zoning Bd. Of Adjustment*, 1976).
 - ☐ **For a use variance**, unnecessary hardship exists only if there is no reasonable use of the property without a variance.

The literal enforcement of the ordinance standard(s) (**will / will not**) result in an unnecessary hardship because...

2. **The hardship must be due to unique property limitations** such as steep slopes or wetlands that prevent compliance with the ordinance, and that are not shared by nearby properties. Further, the entire property must be considered, if a code-compliant location(s) exists, a hardship due to unique property limitations **does not exist**.

The hardship (**is / is not**) due to unique conditions of the property because...

3. A variance may not be granted which results in harm to the **public interests**. The public interests are the objectives listed in the purpose section of the ordinance.

The purpose and intent of the zoning code is:

Sec. 114-3. - Purpose.

This chapter is adopted for the purpose of promoting the health, safety, morals, aesthetics and general welfare of the city.

Sec. 114-4. - Intent.

It is the general intent of this chapter to regulate and restrict the use of all structures, lands, and waters so as to:

- (1) Regulate and restrict lot coverage and the size and location of all structures to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- (2) Regulate population density and distribution to avoid undue concentration and to facilitate the provision of adequate public service and utilities;
- (3) Regulate parking, loading, and access to lessen congestion on, and promote the safety and efficiency of, the streets and highways;
- (4) Secure safety from fire, flooding, pollution, contamination, panic, and other dangers;
- (5) Stabilize and protect existing and potential property values;
- (6) Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible development;
- (7) Preserve and protect the beauty of the City of Columbus, Wisconsin and environs;
- (8) Further the orderly layout and appropriate use of land;
- (9) Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters;
- (10) Further the maintenance of safe and healthful water conditions;
- (11) Prevent flood damage to persons and property to minimize expenditures for flood relief and flood control projects;

(12) Provide for and protect a variety of suitable commercial and industrial sites;

(13) Protect the traffic-carrying capacity of existing and proposed arterial streets, highways, and collector streets;

(14) Facilitate adequate provisions for housing, transportation, water supply, stormwater, wastewater, schools, parks, playgrounds, and other public facilities and services;

(15) Facilitate implementation of municipal, county, watershed and/or regional comprehensive plans and plan components adopted by the city;

(16) For such purposes to divide the city into districts of such number, shape and area as are deemed best suited to carry out such purposes;

(17) Provide for the administration and enforcement of this chapter;

(18) Provide penalties for the violation of this chapter.

The variance (**will / will not**) harm the public interests because...

Order and Determination: The BOA member shall decide / vote on the application and direct the zoning department accordingly. The BOA member must refer to specific evidence when rendering a decision.

The application (**does / does not**) meet all three of the above tests and therefore the variance should be (**granted / denied**). The BOA is only allowed to grant a variance if the applicant provides evidence that they meet all three tests:

- 1) Ordinance standards will result in unnecessary hardship.
- 2) The hardship is due to unique conditions of the property.
- 3) The variance will not harm the public interests.

BOA Member Signature

_____ Date _____

Guiding Principles to Grant a Variance

There is ample case law concerning variances that provide the following guiding principles that a BOA should rely on in their decision whether to grant a variance.

Parcel-as-a-whole. The entire parcel, not just a portion of a parcel, must be considered when applying the unnecessary hardship test. *State v. Winnebago County*, 196 Wis.2d 836, 844-45 n.8, 540 N.W.2d 6 (Ct. app. 1995)

Self-imposed hardship. An applicant may not claim hardship because of conditions created by his/her actions. *State ex rel. Markdale Corp. v. Bd. of Appeals of Milwaukee*, 27 Wis. 2d 468, 479, 247 N.W.2d 98 (1976)

Circumstances of applicant. Specific circumstances of the applicant, such as a growing family or desire for a larger garage are not a factor in deciding variances. *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 478-79, 247 N.W.2d 98 (1976)

Financial hardship. Economic loss or financial hardship do not justify a variance. The test is not whether a variance would maximize economic value of a property or be the least expensive option for the applicant. *State v. Winnebago County*, 196 Wis. 2d 836, 844-45, 540 N.W.2d 6 (Ct. App. 1995); *State v. Ozaukee County Bd. of Adjustment*, 152 Wis. 2d 552, 563, 449 N.W.2d 47 (Ct. App. 1989)

Uniqueness of the property. Where the hardship imposed upon an applicant's property is no greater than that suffered by nearby lands, the BOA may not grant a variance to relieve it. To grant such relief would be unfair to owners who remain subject to the general restrictions of the zoning ordinance, and it would endanger the community plan by piecemeal exemption. *Arndorfer v. Sauk County Bd. Of Adjustment*, 162 Wis. 2d 246, 469 N.W.2d 831 (1991).

Nearby violations. Nearby ordinance violations, even if similar to the requested variance, do not provide grounds for granting a variance. *Von Elm v. Bd. of Appeals of Hempstead*, 258 A.D. 989, 17 N.Y.S.2d 548 (N.Y. App. Dev. 1940)

Previous variance requests. Previously granted or denied variances, even if similar to the requested variance, cannot be used in deciding a variance. The decision must be based on the facts of the individual case before the BOA.

Objections from neighbors. The lack of objections from neighbors does not provide a basis for granting a variance. *Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis. 2d 246, 254, 469 N.W.2d 831 (1991)

Variance to meet code. Variances to allow a structure to be brought into compliance with building code requirements have been upheld by the courts. *Thalhofer v. Patri*, 240 Wis. 404, 3 N.W.2d 761 (1942); *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 419-420, 577 N.W.2d 813 (1998)

City of Columbus
BOARD OF ZONING APPEALS
APPLICATION FOR PUBLIC HEARING

PETITION: I, Josh Lamp HEREBY PETITION THE CITY OF COLUMBUS BOARD OF ZONING APPEALS TO HOLD A PUBLIC HEARING ON THE FOLLOWING REQUEST FOR:

- ☒ A VARIANCE FROM THE COLUMBUS ZONING ORDINANCE (CHAPTER 114)
- ☐ A VARIANCE FROM THE COLUMBUS FLOOD PLAIN ORDINANCE (CHAPTER 46)
- ☐ AN APPEAL OF THE ZONING ADMINISTRATOR'S DETERMINATION

APPLICANT (MAY OR MAY NOT BE PROPERTY OWNER—SEE BELOW):	PERSON'S NAME: <u>JOSH LAMP</u>
	FIRM'S NAME: <u>LAMP'S LANDING LLC</u>
	MAILING ADDRESS: <u>2230 FORDHEM AVE</u>
	CITY/STATE/ZIP: <u>MADISON WI 53704</u>
	DAYTIME TELEPHONE: <u>(608) 239-2559</u>
	EMAIL ADDRESS: <u>LAMPSELLS@GMAIL.COM</u>
PROPERTY OWNER CONTACT INFORMATION IF DIFFERENT FROM APPLICANT (PLEASE INCLUDE OWNER'S SIGNATURE ON THIS FORM):	<u>SAME</u>
LEGAL DESCRIPTION OF SUBJECT PROPERTY OR PARCEL NUMBER(S):	<u>LOT 18, CARDINAL HEIGHTS PLAT</u>
SUBJECT PROPERTY	<u>LOT 18</u>

STREET ADDRESS OR STREET BOUNDARIES OF SUBJECT PROPERTY (WHERE NOT YET ADDRESSED):	102 O'BRIEN COURT
	COLUMBUS WI
PRESENT ZONING:	R-3
PRESENT FLOOD PLAIN DESIGNATION:	NOT WITHIN FLOOD PLAIN
VARIANCE REQUEST: WHAT SECTION(S) OF THE ZONING CODE ARE YOU SPECIFICALLY ASKING TO BE VARIED, BY HOW MUCH, AND WHY? ENTER "N/A" IF NOT APPLICABLE.	<p>REQUESTING VARIANCE FROM THE</p> <p>SIDE YARD SETBACK UNDER SECTION 114-59.</p> <p>LOT IS 106' WIDE AT BUILDING SETBACK, BUT 64' OF THAT IS HWY SETBACK. RATHER THAN HAVING A SIDE YARD THAT IS 10% OF THE LOT WIDTH, THE REQUEST IS TO MATCH THE SIDE YARD OF THE ADJACENT LOT 17 ON THE NORTH SIDE ($10\% \times 56' \text{ WIDE} = 5.6'$) WHILE STILL HAVING A SIDE YARD OF 64' ON THE SOUTH SIDE.</p>

PLEASE STATE HOW YOUR REQUEST MEETS THE FOLLOWING STANDARDS, WHICH MUST ALL BE MET FOR THE BOARD OF APPEALS TO GRANT A VARIANCE: (Please attach another document if you more space or write see attached for each section and attach answers.)

How would compliance with the strict letter of the zoning or flood plain ordinance unreasonably prevent the owner from using the property for a permitted purpose or render conformity with such restrictions unnecessarily burdensome? It is not sufficient that a variance applicant show that the regulation(s) prevents or burdens his or her planned activity. You must show by competent evidence that the regulation unreasonably prevents or unnecessarily burdens the proposed activity.

THE HOUSE TO BE BUILT ON LOT 18 IS ONLY 39' WIDE, WHICH PROVIDES FOR A GARAGE AND FRONT ENTRYWAY FACING THE STREET (SEE ATTACHED FLOOR PLAN). THE ORDINANCE SPECIFIES A SIDE YARD OF 10.6', WHICH WOULD REDUCE THE BUILDING ENVELOPE BY 5' AND MAKE THE FLOOR PLAN UNUSEABLE. GRANTING A VARIANCE FOR THE NORTH SIDE OF THE HOUSE WILL GIVE THIS LOT THE SAME SIDEYARD AS THE NEXT 3 LOTS ALONG O'BRIEN COURT.

<p>How would compliance with the strict letter of the ordinance create unnecessary hardship due to a unique property condition, meaning a special physical feature or limitation of the property that is not generally shared by nearby land or property within the same zoning district or flood plain area? If a variance applicant fails to prove the existence of a unique property condition and a connection between the condition and the hardship, even if the hardship is great, a variance may not be granted. The purpose of the variance may not be based exclusively on financial concerns relating to the property.</p>	<p>THIS LOT IS UNIQUE IN THAT IT IS VERY WIDE, BUT WELL OVER HALF OF IT IS WITHIN THE HIGHWAY SETBACK WHICH CANNOT BE BUILT WITHIN, MAKING THE BUILDING ENVELOPE QUITE NARROW (SEE ATTACHE SITE PLAN).</p>
<p>How would the requested variance be consistent with the public interest?</p>	<p>THE REQUESTED SIDE YARD WOULD MATCH THE NEXT 3 LOTS ON O'BRIEN COURT, SO IT WOULD FIT INTO THE NEIGHBORHOOD</p>
<p>How does the variance not impact flooding in the community?</p> <ol style="list-style-type: none"> 1. Does the development cause an increase in the regional flood elevation? 2. Is the lot less than one-half acre? 3. Does the development impact public safety and nuisances? 4. Does the development increase flood insurance for the community? 	<p>N.A.</p>

Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered. (attached alternative and label it if needed).

A ZERO LOT LINE TWIN HOME WAS CONSIDERED ON LOTS 17 & 18.
(SEE ATTACHED ALTERNATE B)

Describe alternatives you considered that require a lesser variance and reason you rejected them. If you rejected them, provide the reasons you rejected them. (attached alternative and label it if needed).

THE ZERO LOT LINE TWIN HOME WAS NOT SELECTED
BECAUSE IT WOULD REQUIRE A CONDITIONAL USE, AND
MORE IMPORTANTLY THE MARKET DEMAND IS FOR A
SINGLE FAMILY HOME.

CARDINAL HEIGHTS

LOT 46, HIGHLAND RIDGE, RECORDED IN VOLUME 1 ON PAGE 266 OF PLATS AS DOCUMENT NUMBER 739893 IN THE COLUMBIA COUNTY REGISTER OF DEEDS OFFICE, LOCATED IN THE SE1/4 OF THE SE1/4 OF SECTION 14, THE SW1/4 OF THE SW1/4 OF SECTION 13 AND THE NE1/4 OF THE NE1/4 OF SECTION 23, ALL IN TOWNSHIP 10 NORTH, RANGE 12 EAST, CITY OF COLUMBUS, COLUMBIA COUNTY, WISCONSIN

SURVEYOR'S CERTIFICATE

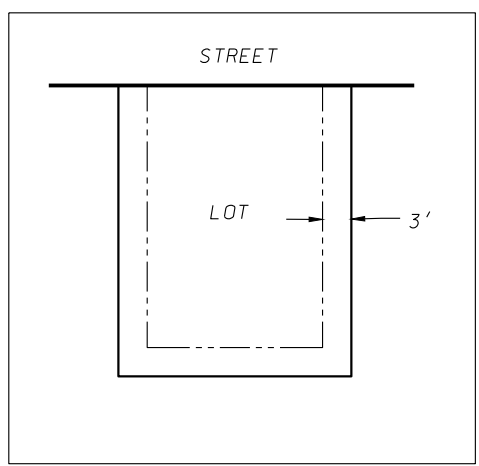
I, Brett T. Stoffregan, Professional Land Surveyor S-2742 do hereby certify that in full compliance with the provisions of Chapter 236 of the Wisconsin State Statutes and the Subdivision Regulations of the City of Columbus, and under the direction of the owners listed below, I have surveyed, divided and mapped "Cardinal Heights" and that such plat correctly represents all the exterior boundaries and the subdivision of the land surveyed as is described as follows:
Lot 46, Highland Ridge, recorded in Volume 1 on page 266 of Plats as Document Number 739893 in the Columbia County Register of Deeds Office, located in the SE1/4 of the SE1/4 of Section 14, the SW1/4 of the SW1/4 of Section 13 and the NE1/4 of the NE1/4 of Section 23, all in T10N, R12E, City of Columbus, Columbia County, Wisconsin.
Containing 328,820 square feet (7.549 acres).

Dated this 29th day of January, 2025
Revised this 11th day of March, 2025

Brett T. Stoffregan, Professional Land Surveyor, S-2742

NOTES

- Outlot 1 is dedicated to the public for stormwater management.
- Public Stormwater Drainage Easements: Lots 1-18 are subject to Public Stormwater Drainage Easements which shall be three (3) feet in width measured from the property line to the interior of each lot. EXCEPT along streets and outlots for alleys. For purposes of two (2) or more lots combined for a single development site, the Public Stormwater Drainage Easement shall be a minimum of three (3) feet in width and shall be measured only from the exterior property lines of the combined lots that create a single development site. No buildings, driveways, or retaining walls shall be placed in the easement. Fences may be placed in the easement only if they do not impede the anticipated flow of water.
- No improvements or structures are allowed between the right-of-way line and the highway setback line. Improvements and structures include, but are not limited to, signs, parking areas, driveways, wells, septic systems, drainage facilities, buildings and retaining walls, (unless a special exception is obtained from the Wisconsin Department of Transportation). It is expressly intended that this restriction is for the benefit of the public as provided in section 236.293, Wisconsin Statutes, and shall be enforceable by the Wisconsin Department of Transportation or its assigns. Contact the Wisconsin Department of Transportation for more information. The phone number may be obtained by contacting the County Highway Department.
- All lots and blocks are hereby restricted so that no owner, possessor, user, licensee or other person may have any right of direct vehicular ingress from or egress to any highway, lying within the right-of-way of S.T.H. 73/BUS. 151; it is expressly intended that this restriction constitute a restriction for the benefit of the public as provided in s. 236.293, Stats., and shall be enforceable by the department or its assigns.
- Vision Corner:
No object except tree trunks, posts and wire fences shall be allowed above two and one-half feet above the street centerline if such object obstructs the view across the triangle, unless prior permission has been granted by the plan commission.
- Distances shown along curves are chord lengths.



PUBLIC STORMWATER DRAINAGE EASEMENTS (SEE NOTE 2)
NOT TO SCALE



0 60' 120'
1" = 60'

GRID NORTH
WISCONSIN COUNTY COORDINATE SYSTEM,
COLUMBIA COUNTY ZONE, NAD83(2011)
THE SOUTH LINE OF THE SE1/4 OF
SECTION 14, T10N, R12E BEARS S87°13'06"W

D'ONOFRIO KOTTKE AND ASSOCIATES, INC.

7530 Westward Way, Madison, WI 53717

Phone: 608.833.7530 • Fax: 608.833.1089

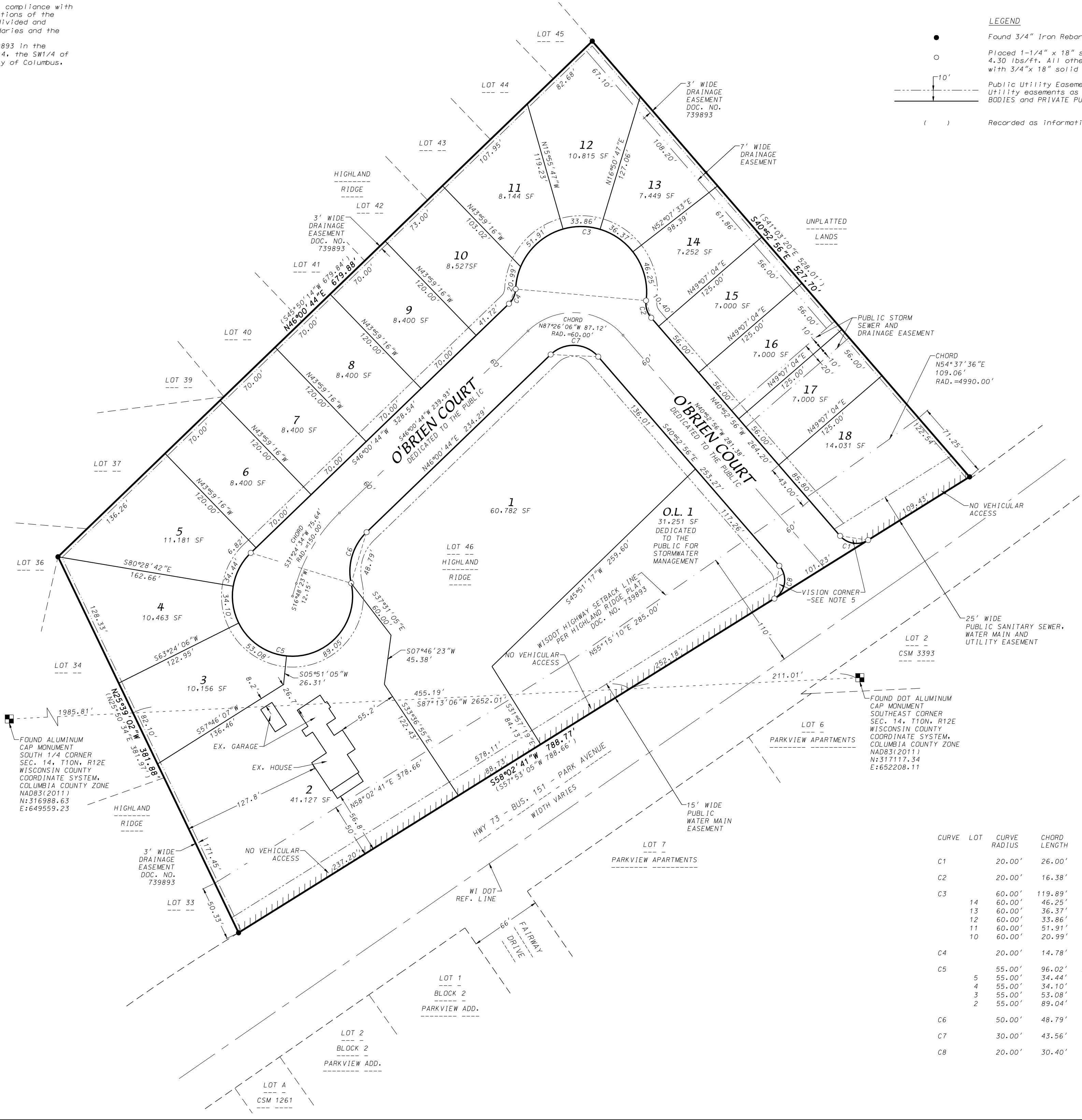
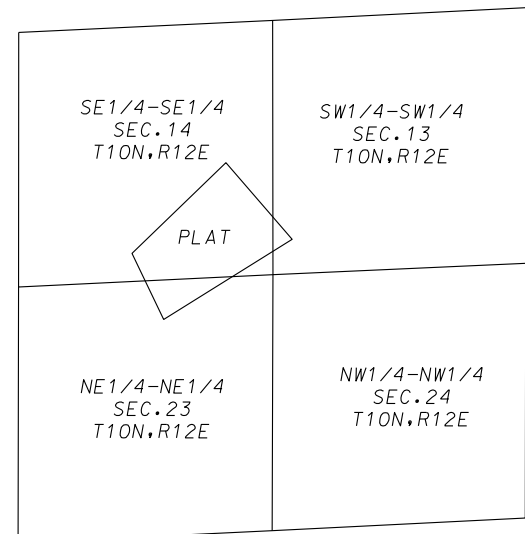
YOUR NATURAL RESOURCE FOR LAND DEVELOPMENT

1/19/24
REV. 3/11/25
FN:24-07-111

Mar 11, 2025-8:59am U:\User\2407111\Drawings\2407111 Final Plat.dwg Sheet 1

LEGEND

- Found 3/4" Iron Rebar
- Placed 1-1/4" x 18" solid round iron rebar stake, weighing 4.30 lbs/ft. All other lot and outlot corners are marked with 3/4"x 18" solid round iron rebar stakes, weighing 1.50 lbs/ft.
- Public Utility Easement
Utility easements as herein set forth are for the use of PUBLIC BODIES and PRIVATE PUBLIC UTILITIES having the right to serve the area.
- Recorded as information



CURVE TABLE						
CURVE	LOT	CURVE RADIUS	CHORD LENGTH	ARC LENGTH	CHORD BEARING	CENTRAL ANGLE
C1		20.00'	26.00'	28.30'	N81°25'07"W	81°04'23"
C2		20.00'	16.38'	16.88'	N16°42'28"W	48°20'56"
C3	14	60.00'	119.89'	193.53'	N84°56'19"W	184°48'38"
	13	60.00'	46.25'	47.48'	N15°12'10"W	45°20'20"
	12	60.00'	36.37'	36.95'	N55°30'47"W	35°16'54"
	11	60.00'	33.86'	34.32'	N89°32'30"W	32°46'32"
	10	60.00'	51.91'	53.69'	S48°26'15"W	51°15'58"
			20.39'	21.10'	S12°43'49"W	20°08'54"
C4		20.00'	14.78'	15.13'	S24°20'03"W	43°21'22"
C5	5	55.00'	96.02'	228.86'	S73°11'37"E	238°24'42"
	4	55.00'	34.44'	35.03'	S27°46'05"W	36°29'18"
	3	55.00'	34.10'	34.67'	S08°32'14"E	36°07'20"
	2	55.00'	53.08'	55.39'	S55°27'07"E	57°42'26"
			89.04'	103.76'	N41°38'51"E	108°05'38"
C6		50.00'	48.79'	50.97'	N16°48'23"E	58°24'42"
C7		30.00'	43.56'	48.75'	S87°26'06"E	93°06'20"
C8		20.00'	30.40'	34.53'	S08°34'53"W	98°55'37"

CARDINAL HEIGHTS

LOT 46, HIGHLAND RIDGE, RECORDED IN VOLUME 1 ON PAGE 266 OF PLATS AS DOCUMENT NUMBER 739893 IN THE COLUMBIA COUNTY REGISTER OF DEEDS OFFICE, LOCATED IN THE SE1/4 OF THE SE1/4 OF SECTION 14, THE SW1/4 OF THE SW1/4 OF SECTION 13 AND THE NE1/4 OF THE NE1/4 OF SECTION 23, ALL IN TOWNSHIP 10 NORTH, RANGE 12 EAST, CITY OF COLUMBUS, COLUMBIA COUNTY, WISCONSIN

OWNER'S CERTIFICATE

Lamps Landing, LLC a limited liability company duly organized and existing under and by virtue of the laws of the State of Wisconsin, as owner, does hereby certify that said limited liability company caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on this plat.

Lamps Landing, LLC does further certify that this plat is required by S236.10 or S236.12 Wisconsin Statutes to be submitted to the following agencies for approval or objection:

Department of Administration
Department of Transportation
Common Council, City of Columbus

In witness whereof, Lamps Landing, LLC has caused these presents to be signed this _____ day of _____, 2025.

Lamps Landing, LLC

STATE OF WISCONSIN)
COUNTY OF DANE) S.S

Personally came before me this _____ day of _____, 2025, the above person to me known to be the person who executed the foregoing instrument and acknowledged the same.

My Commission expires _____ Notary Public, Dane County, Wisconsin

CITY OF COLUMBUS CLERK CERTIFICATE

Resolved that the plat of "Cardinal Heights" located in the City of Columbus, was hereby approved on the _____ day of _____, 2025, and that said approval further provided for the acceptance of those lands dedicated and rights conveyed by said plat to the City of Columbus for public use.

Dated this _____ day of _____, 2025.

Susan Cairne, Clerk, City of Columbus, Columbia County, Wisconsin

CITY OF COLUMBUS TREASURER'S CERTIFICATE

I, Krystal Larson, being the duly appointed, qualified, and acting Treasurer of the City of Columbus, Columbia County, Wisconsin, do hereby certify that, in accordance with the records in my office, there are no unpaid taxes or unpaid special assessments as of this _____ day of _____, 2025 on any of the lands included in the plat of "Cardinal Heights".

Krystal Larson, Treasurer, City of Columbus, Columbia County, Wisconsin

COLUMBIA COUNTY TREASURER'S CERTIFICATE

I, Stacy Opalewski, being the duly elected, qualified, and acting Treasurer of the County of Columbia, Wisconsin, do hereby certify that in accordance with the records in my office, there are no unpaid taxes or special assessments as of this _____ day of _____, 2025 affecting the land included in "Cardinal Heights".

Stacy Opalewski, Treasurer, Columbia County, Wisconsin

REGISTER OF DEEDS CERTIFICATE

Received for recording this _____ day of _____, 2025

at _____ .M. and recorded in Volume _____ of Plats on Pages _____ as Document Number _____.

Lisa Krintz, Columbia County Register of Deeds



Agenda Item Report

Meeting Type: Zoning Board of Appeals

Meeting Date: July 9, 2025

Item Title: Set back reduction for parking lots from 5 feet to zero

Submitted By: Mike Kornmann, Director of Community and Economic Development

Detailed Description of Subject Matter:

Applicant is requesting a reduction of the set back for parking lots to the lot line from five feet to zero. Attached is the application and decision form. If you decide to grant the request all three criteria must be met on the form.

List all Supporting Documentation Attached:

- Variance Application- Obrien Court/Lamps Landing
- Variance Decision Form
- CSM/Site Plan

Action Requested: Decision utilizing the Variance Decision Form.

City of Columbus
BOARD OF ZONING APPEALS
APPLICATION FOR PUBLIC HEARING

PETITION: I, Debbie Oldenburg HEREBY PETITION THE CITY OF COLUMBUS BOARD OF ZONING APPEALS TO HOLD A PUBLIC HEARING ON THE FOLLOWING REQUEST FOR:

- ☒ A VARIANCE FROM THE COLUMBUS ZONING ORDINANCE (CHAPTER 114)
- ☐ A VARIANCE FROM THE COLUMBUS FLOOD PLAIN ORDINANCE (CHAPTER 46)
- ☐ AN APPEAL OF THE ZONING ADMINISTRATOR'S DETERMINATION

APPLICANT (MAY OR MAY NOT BE PROPERTY OWNER—SEE BELOW):	PERSON'S NAME: <u>Logan DeBoer</u>
	FIRM'S NAME: <u>Grothman & associates</u>
	MAILING ADDRESS: <u>625 E. Slifer street</u>
	CITY/STATE/ZIP: <u>Portage, WI 53901</u>
	DAYTIME TELEPHONE: <u>608 742 7788</u>
	EMAIL ADDRESS: <u>Ldeboer@grothman.com</u>
PROPERTY OWNER CONTACT INFORMATION IF DIFFERENT FROM APPLICANT (PLEASE INCLUDE OWNER'S SIGNATURE ON THIS FORM):	<u>KO Properties of Columbus LLC % Debbie Oldenburg</u>
	<u>920 210 5006</u>
LEGAL DESCRIPTION OF SUBJECT PROPERTY OR PARCEL NUMBER(S):	<u>Parcel 11211-908.02</u>
SUBJECT PROPERTY	<u>Part of lot 2 CSM 1848</u>

STREET ADDRESS OR STREET BOUNDARIES OF SUBJECT PROPERTY (WHERE NOT YET ADDRESSED):	105 Dix street
PRESENT ZONING: PRESENT FLOOD PLAIN DESIGNATION:	B-2 highway commercial N/A
VARIANCE REQUEST: WHAT SECTION(S) OF THE ZONING CODE ARE YOU SPECIFICALLY ASKING TO BE VARIED, BY HOW MUCH, AND WHY? ENTER "N/A" IF NOT APPLICABLE.	Sec. 114-130 (1) (d) proposed lot lines to be in the present parking lot.

PLEASE STATE HOW YOUR REQUEST MEETS THE FOLLOWING STANDARDS, WHICH MUST ALL BE MET FOR THE BOARD OF APPEALS TO GRANT A VARIANCE: *(Please attach another document if you more space or write see attached for each section and attach answers.)*

How would compliance with the strict letter of the zoning or flood plain ordinance unreasonably prevent the owner from using the property for a permitted purpose or render conformity with such restrictions unnecessarily burdensome? It is not sufficient that a variance applicant show that the regulation(s) prevents or burdens his or her planned activity. You must show by competent evidence that the regulation unreasonably prevents or unnecessarily burdens the proposed activity.

The usage of the Subject Property
will Not change. See following statements
for Background.

How would compliance with the strict letter of the ordinance create unnecessary hardship due to a unique property condition, meaning a special physical feature or limitation of the property that is not generally shared by nearby land or property within the same zoning district or flood plain area? If a variance applicant fails to prove the existence of a unique property condition and a connection between the condition and the hardship, even if the hardship is great, a variance may not be granted. The purpose of the variance may not be based exclusively on financial concerns relating to the property.

How would the requested variance be consistent with the public interest?

How does the variance not impact flooding in the community?

1. Does the development cause an increase in the regional flood elevation?
2. Is the lot less than one-half acre?
3. Does the development impact public safety and nuisances?
4. Does the development increase flood insurance for the community?

Existing conditions of the lot consist of a Subway restaurant & fitness center. the 2 businesses currently share an asphalt parking lot. the intention of the owner is to divide the property. In order to accomplish this a variance must be approved to the 5-foot setback from property lines to the current asphalt parking lot. If the variance were to get approved a shared Driveway/Parking Easement would be implemented to continue the present day usage of the 2 businesses.

1. The proposed division does not impact regional flood elevation
2. parcel 11211-908.02 is 0.66 acres in size. See attached Certified Survey map for proposed acreages for the division
3. The proposed division does not impact public safety.
4. Improvements are not being made to the lot. Hence will not increase flood insurance

Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered. (attached alternative and label it if needed).

Due to the location of the parking lot & current zoning regulations there are no other options to pursue that would comply with the current ordinance.

Describe alternatives you considered that require a lesser variance and reason you rejected them. If you rejected them, provide the reasons you rejected them. (attached alternative and label it if needed).

The current Subway restaurant will need to be rezoned to B-3 General commercial district, which allows for a minimum lot size of 9600 S.F. With a minimum road frontage of 80 feet. The fitness center will also need to be rezoned to B-3 since the current zoning district calls for a minimum lot size of 21,730 S.F. Due to the placement of the buildings & current parking lot there are no other options that would make the variance more aligned with the ordinance.

As prepared by:

GROTHMAN & ASSOCIATES S.C.
PROFESSIONAL SERVICES

625 EAST SUPER STREET, P.O. BOX 373 PORTAGE, WI. 53901
PHONE: PORTAGE: (808) 742-7788 SAUK: (808) 644-8877
FAX: (808) 742-0434 E-MAIL: surveying@grothman.com
(RED LOGO REPRESENTS THE ORIGINAL MAP)

G & A FILE NO. 425-238

DRAFTED BY: R.V.

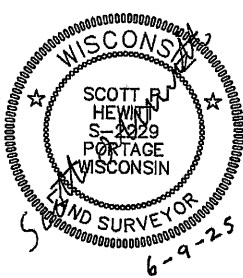
CHECKED BY: L.D.

PROJ. 425-238

DWG. 425-238A

SHEET 1 OF 3

SEAL:



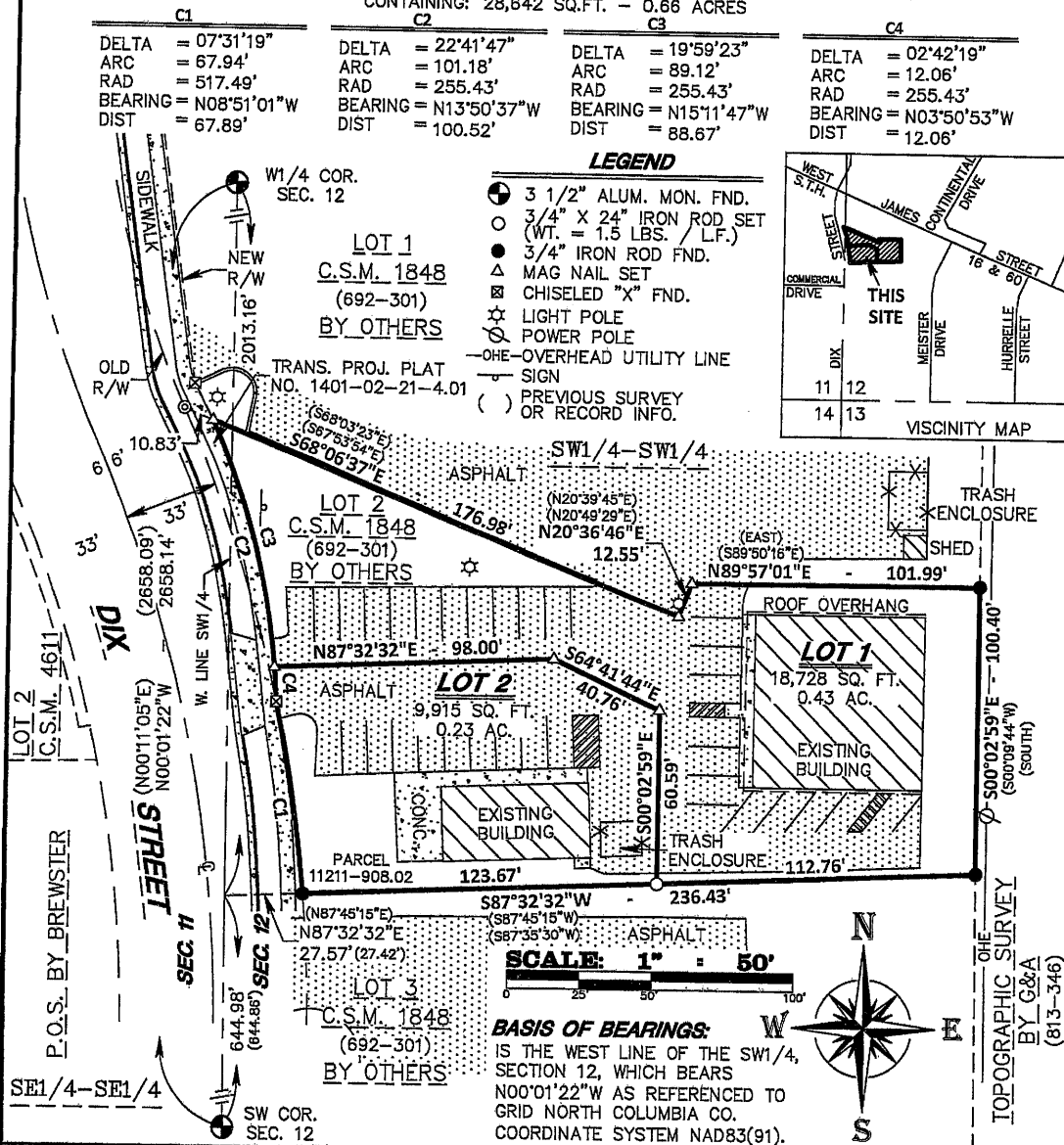
COLUMBIA COUNTY CERTIFIED SURVEY MAP NO.


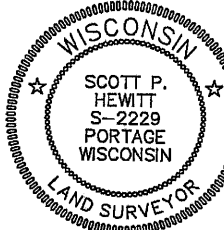

GENERAL LOCATION

BEING PART OF LOT 2, C.S.M. NO. 1848, AS RECORDED IN VOL 10 OF C.S.M.S, PAGE 54 AS DOC. NO. 504908, LOCATED IN THE SW1/4 OF THE SW1/4, SECTION 12 AND THE SE1/4 OF THE SE1/4, SECTION 11, T. 10 N, R. 12 E, CITY OF COLUMBUS, COLUMBIA COUNTY, WISCONSIN.

CONTAINING: 28,642 SQ.FT. - 0.66 ACRES

Volume _____, Page _____



<p>As prepared by:</p> <div style="text-align: center;">  GROTHMAN & ASSOCIATES S.C. PROFESSIONAL SERVICES <small>625 EAST SUPER STREET, P.O. BOX 373 PORTAGE, WI. 53901 PHONE: PORTAGE: (808) 742-7788 SAUK: (808) 644-8877 FAX: (808) 742-0434 E-MAIL: surveying@grothman.com (RED LOGO REPRESENTS THE ORIGINAL MAP)</small> </div> <p>G & A FILE NO. <u>425-238</u></p> <p>DRAFTED BY: <u>R.V.</u></p> <p>CHECKED BY: <u>L.D.</u></p> <p>PROJ. <u>425-238</u></p> <p>DWG. <u>425-238A</u> SHEET <u>2</u> OF <u>3</u></p>	<p>SEAL:</p> <div style="text-align: center;">  </div>
<div style="text-align: center;"> COLUMBIA COUNTY CERTIFIED SURVEY MAP NO. _____ GENERAL LOCATION </div> <p style="text-align: right;">Volume _____, Page _____</p> <p>BEING PART OF LOT 2, C.S.M. NO. 1848, AS RECORDED IN VOL 10 OF C.S.M.S, PAGE 54 AS DOC. NO. 504906, LOCATED IN THE SW1/4 OF THE SW1/4, SECTION 12 AND THE SE1/4 OF THE SE1/4, SECTION 11, T. 10 N, R. 12 E, CITY OF COLUMBUS, COLUMBIA COUNTY, WISCONSIN.</p> <p style="text-align: center;">CONTAINING: 28,642 SQ.FT. - 0.66 ACRES</p> <div style="text-align: center;"> SURVEYOR'S CERTIFICATE </div> <p>I, SCOTT P. HEWITT, Professional Land Surveyor, do hereby certify that by the order of Debbie Oldenburg, I have surveyed, monumented, mapped and divided part of Lot 2, Certified Survey Map, No. 1848 as recorded in Volume 10 of Certified Survey Maps, page 54 as Document No. 504906 located in the Southwest Quarter of the Southwest Quarter, Section 12 and the Southeast Quarter of the Southeast Quarter, Section 11, Town 10 North, Range 12 East, City of Columbus, Columbia County, Wisconsin, described as follows:</p> <p>Commencing at the Southwest corner of Section 12; thence North 00°01'22" West along the West line of the Southwest Quarter, 644.98 feet; thence North 87°32'32" East, 27.57 feet to the Southwest corner of Lot 2, Certified Survey Map, No.1848 and being the point of beginning; thence Northwesterly along a 517.49 foot radius curve to the left along the East right-of-way line of Dix Street having a central angle of 07°31'19" and whose long chord bears North 08°51'01" West, 67.89 feet; thence Northwesterly along a 255.43 foot radius curve to the left along said East right-of-way line having a central angle of 22°41'47" and whose long chord bears North 13°50'37" West, 100.52 feet to the North line of Lot 2, Certified Survey Map, No. 1848; thence South 68°06'37" East along the North line of said Lot 2, 176.98 feet; thence North 20°36'46" East along the Northerly line of said Lot 2, 12.55 feet; thence North 89°57'01" East along the Northerly line of said Lot 2, 101.99 feet to the Northeast corner thereof; thence South 00°02'59" East along the East line of said Lot 2, 100.40 feet to the Southeast corner thereof; thence South 87°32'32" West along the South line of said Lot 2, 236.43 feet to the point of beginning. Containing 28,642 square feet (0.66 acres), more or less. Being subject to servitudes and easements of use or record, if any.</p> <p>I DO FURTHER CERTIFY that this is a true and correct representation of the boundaries of the land surveyed and that I have fully complied with the Provisions of Chapter 236.34 of the Wisconsin State Statutes and the City of Columbus Subdivision Ordinances in surveying and mapping the same to the best of my knowledge and belief.</p> <div style="text-align: center;">  SCOTT P. HEWITT Professional Land Surveyor, No. 2229 Dated: June 9, 2025 File No. 425-238 </div>	
<p>OWNER: KO PROPERTIES OF COLUMBUS LLC 105 DIX STREET COLUMBUS, WI 53925</p>	<p>CLIENT: DEBBIE OLDENBURG 1235 PARK AVENUE COLUMBUS, WI 53925</p>

22

BOARD OF APPEALS - CITY OF COLUMBUS

VARIANCE DECISION FORM – GENERAL ZONING

Applicant: Debbie Oldenburg (ZBA 2025-2)

Applicant request: Reduction of setback for parking lots from 5 ft to zero on north side of proposed lot

The BOA may only grant a variance if the applicant provides evidence that they meet all three legal standards below.

1. **Unnecessary hardship** (check area variance or use variance)
 - ☐ **For an area variance**, unnecessary hardship exists when, ordinance standards that are strictly applied would unreasonably prevent a permitted use of a property, or render conformity with such standards unnecessarily burdensome. Circumstances of an applicant, such as a growing family or desire for a larger garage are not legitimate factors in deciding variances. A personal inconvenience is not sufficient to meet the unnecessary hardship standard. (*Snyder v. Waukesha County Zoning Bd. Of Adjustment*, 1976).
 - ☐ **For a use variance**, unnecessary hardship exists only if there is no reasonable use of the property without a variance.

The literal enforcement of the ordinance standard(s) (**will / will not**) result in an unnecessary hardship because...

2. **The hardship must be due to unique property limitations** such as steep slopes or wetlands that prevent compliance with the ordinance, and that are not shared by nearby properties. Further, the entire property must be considered, if a code-compliant location(s) exists, a hardship due to unique property limitations **does not exist**.

The hardship (**is / is not**) due to unique conditions of the property because...

3. A variance may not be granted which results in harm to the **public interests**. The public interests are the objectives listed in the purpose section of the ordinance.

The purpose and intent of the zoning code is:

Sec. 114-3. - Purpose.

This chapter is adopted for the purpose of promoting the health, safety, morals, aesthetics and general welfare of the city.

Sec. 114-4. - Intent.

It is the general intent of this chapter to regulate and restrict the use of all structures, lands, and waters so as to:

- (1) Regulate and restrict lot coverage and the size and location of all structures to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- (2) Regulate population density and distribution to avoid undue concentration and to facilitate the provision of adequate public service and utilities;
- (3) Regulate parking, loading, and access to lessen congestion on, and promote the safety and efficiency of, the streets and highways;
- (4) Secure safety from fire, flooding, pollution, contamination, panic, and other dangers;
- (5) Stabilize and protect existing and potential property values;
- (6) Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible development;
- (7) Preserve and protect the beauty of the City of Columbus, Wisconsin and environs;
- (8) Further the orderly layout and appropriate use of land;
- (9) Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters;
- (10) Further the maintenance of safe and healthful water conditions;

(11) Prevent flood damage to persons and property to minimize expenditures for flood relief and flood control projects;

(12) Provide for and protect a variety of suitable commercial and industrial sites;

(13) Protect the traffic-carrying capacity of existing and proposed arterial streets, highways, and collector streets;

(14) Facilitate adequate provisions for housing, transportation, water supply, stormwater, wastewater, schools, parks, playgrounds, and other public facilities and services;

(15) Facilitate implementation of municipal, county, watershed and/or regional comprehensive plans and plan components adopted by the city;

(16) For such purposes to divide the city into districts of such number, shape and area as are deemed best suited to carry out such purposes;

(17) Provide for the administration and enforcement of this chapter;

(18) Provide penalties for the violation of this chapter.

The variance (**will / will not**) harm the public interests because...

Order and Determination: The BOA member shall decide / vote on the application and direct the zoning department accordingly. The BOA member must refer to specific evidence when rendering a decision.

The application (**does / does not**) meet all three of the above tests and therefore the variance should be (**granted / denied**). The BOA is only allowed to grant a variance if the applicant provides evidence that they meet all three tests:

- 1) Ordinance standards will result in unnecessary hardship.
- 2) The hardship is due to unique conditions of the property.
- 3) The variance will not harm the public interests.

BOA Member Signature

_____ Date _____

Guiding Principles to Grant a Variance

There is ample case law concerning variances that provide the following guiding principles that a BOA should rely on in their decision whether to grant a variance.

Parcel-as-a-whole. The entire parcel, not just a portion of a parcel, must be considered when applying the unnecessary hardship test. *State v. Winnebago County*, 196 Wis.2d 836, 844-45 n.8, 540 N.W.2d 6 (Ct. app. 1995)

Self-imposed hardship. An applicant may not claim hardship because of conditions created by his/her actions. *State ex rel. Markdale Corp. v. Bd. of Appeals of Milwaukee*, 27 Wis. 2d 468, 479, 247 N.W.2d 98 (1976)

Circumstances of applicant. Specific circumstances of the applicant, such as a growing family or desire for a larger garage are not a factor in deciding variances. *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 478-79, 247 N.W.2d 98 (1976)

Financial hardship. Economic loss or financial hardship do not justify a variance. The test is not whether a variance would maximize economic value of a property or be the least expensive option for the applicant. *State v. Winnebago County*, 196 Wis. 2d 836, 844-45, 540 N.W.2d 6 (Ct. App. 1995); *State v. Ozaukee County Bd. of Adjustment*, 152 Wis. 2d 552, 563, 449 N.W.2d 47 (Ct. App. 1989)

Uniqueness of the property. Where the hardship imposed upon an applicant's property is no greater than that suffered by nearby lands, the BOA may not grant a variance to relieve it. To grant such relief would be unfair to owners who remain subject to the general restrictions of the zoning ordinance, and it would endanger the community plan by piecemeal exemption. *Arndorfer v. Sauk County Bd. Of Adjustment*, 162 Wis. 2d 246, 469 N.W.2d 831 (1991).

Nearby violations. Nearby ordinance violations, even if similar to the requested variance, do not provide grounds for granting a variance. *Von Elm v. Bd. of Appeals of Hempstead*, 258 A.D. 989, 17 N.Y.S.2d 548 (N.Y. App. Dev. 1940)

Previous variance requests. Previously granted or denied variances, even if similar to the requested variance, cannot be used in deciding a variance. The decision must be based on the facts of the individual case before the BOA.

Objections from neighbors. The lack of objections from neighbors does not provide a basis for granting a variance. *Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis. 2d 246, 254, 469 N.W.2d 831 (1991)

Variance to meet code. Variances to allow a structure to be brought into compliance with building code requirements have been upheld by the courts. *Thalhofer v. Patri*, 240 Wis. 404, 3 N.W.2d 761 (1942); *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 419-420, 577 N.W.2d 813 (1998)

Sec. 114-130. Location of parking.

All off-street parking shall be located in conformity with the following requirements:

- (1) Residential districts.
 - a. Parking spaces accessory to dwellings located in any residential zoning district shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any required front yard with the exception of a paved area not to exceed 24 feet in width, but may be located in the side or rear yards. Each parking space accessory to a multifamily dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area. If a building has a three-car garage, the paved area within the required front yard may be increased by an additional 11 feet in width.
 - b. All parking spaces accessory to permitted non-dwelling uses located in any residential district generally shall be located on the same lot as the use serviced. However, the zoning administrator may allow such parking facilities to be located on another parcel within 200 feet of the use served if the "same lot" requirement is not feasible.
 - c. No commercial vehicle exceeding three-ton cargo capacity shall be parked in any residential district except for normal loading, unloading and service calls, nor shall any vehicle repair work be conducted on any nonresidential parking lot located in said districts.
 - d. **Parking may not be closer than five feet to any lot line.**
- (2) Business and manufacturing districts. There shall be no parking in required yards except for commercial and industrial districts, where parking may not be closer than five feet to any lot line.

(Ord. No. 643-09, §§ I, II, 4-8-09)