



Agenda

Board of Zoning Appeals

Thursday, March 30, 2023 at 5:00 PM

City Hall, 100 E Fountain St, Dodgeville, WI

I. CALL TO ORDER AND ROLL CALL

II. APPROVAL OF MINUTES

1. Approval of Minutes from December 14, 2022

III. PUBLIC HEARING

2. Public Comment - All interested persons will be heard.
3. Adjourn Public Hearing

IV. NEW BUSINESS

4. Consideration and possible action on appeal of John Meyers to grant a variance from the required setbacks for 2 structures in the B- H General Highway Business zoning district pursuant to sec. 17.18(2) of the Zoning Code to allow the installation of 2 Commercial Mini Storage buildings with a 15 foot setback from the rear lot line on the property located at 313 County Rd YZ (parcel # 216- 1302) legally described as Lot 2, CSM 1609- 11CS- 216.
5. Appointment of secretary for the Board of Zoning Appeals

V. ADJOURN

6. Motion to Adjourn & Next Meeting Date

Any person who has a qualifying disability, as defined by the Americans with Disabilities Act, that requires the meeting or material at the meeting to be in an accessible location or format, must contact the City Clerk at the address listed above or call 930-5228, prior to the meeting so that any necessary arrangements can be made to accommodate each request.

Board of Zoning Appeals Meeting
Wednesday, December 14, 2022 @ 5:00 PM
City Hall Council Chambers

MINUTES

1. Call to order and Roll Call

The meeting was called to order by Ted Chitwood at 5 p.m.

Present: Luecke, Chitwood, Schroeder

Not Present: Reimann

Others Present; Gilles-Building Inspector

A temporary Chairman was appointed for this meeting since the acting Chairman was absent

Motion by Carrie, second by Luecke to appoint Ted Chitwood as the chairman pro tempore for this meeting.

2. Approval of Minutes from October 19, 2022

Motion by Schroeder, second by Luecke to approve the minutes from Oct. 19, 2022. Voice vote
Motion carried 3-0.

3. Appointment of a secretary for the Board of Zoning Appeals.

Motion by Schroeder, second by Luecke to table this until a future meeting. Voice vote
Motion carried 3-0.

4. **Public Hearing**

- a. Appeal of John Meyers to grant a variance from the required setbacks for a structure in the B-H General Highway Business zoning district pursuant to sec. 17.18(2) of the Zoning Code to allow the installation of 2 Commercial Mini Storage buildings with a 15 foot setback from the rear lot line on the property located at 313 County Rd YZ (parcel # 216-1302) legally described as Lot 2, CSM 1609-11CS-216.

Chitwood commented that the Board will not have a voting quorum on the appeal of John Meyers since Luecke is recusing herself from this part of the meeting. Mr. Meyers was notified of this prior to the meeting, but attended anyway.

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City Hall Council Chambers

- b. Appeal of Susan Bay to grant an after the fact variance from the required setbacks pursuant to sec. 17.19(3) of the Zoning Code to allow a setback of 25 feet (an exact measurement will be known once a surveyor establishes the property line prior to the meeting date) for a roof that has been built over an existing deck. The property is located at 602 N Main St. (parcel # 216-0605) legally described as PT OF LOTS 36, 37, 38, 39 & 40 MADDIN'S ADDITION.

Chitwood invited Allison Markoski to step up to the podium to speak in regards to the appeal of Susan Bay.

Allison Markoski, attorney from Jackson Law Firm representing Sue and Gary Bay spoke in regards to the requested variance. She stated that a surveyor was hired to establish a more accurate distance from the roof that was built so that the amount of the variance request would be more accurate than the 25 feet that was estimated to be needed. The survey showed that the closest part of the roof that was built without permit was 20.8 feet from the property line in question. Therefore the Bays are requesting a 30 foot variance to allow the roof that was built to be within 20 feet of the west property line. Allison made the argument that the new roof is a convenience for the public especially any handicapped people since there is a long ramp for their use to access the building. She stated that the existing building is unique due to it already being too close to the property line per current ordinance and needing the accessible entrance. Allison stated that there is no harm to the public interest as the roof is not affecting soil, or water, or impeding snow removal, or any other public safety issues. When asked what the unnecessary hardship was she stated that weather protection would not be provided to the public without the roof over that accessible entrance to the building, and short and long term effects would be that patrons would stop going to the store knowing they and their goods would have to be outside in bad weather.

Motion by Luecke, second by Schroeder to close the public hearing. Voice vote Motion carried 3-0

5. New Business

- a. Consideration and possible action on appeal of John Meyers to grant a variance from the required setbacks for a structure in the B-H General Highway Business zoning district pursuant to sec. 17.18(2) of the Zoning Code to allow the installation of 2 Commercial Mini Storage buildings with a 15 foot setback from the rear lot line on the property located at 313 County Rd YZ (parcel # 216-1302) legally described as Lot 2, CSM 1609-11CS-216.

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This was not acted on since there was not a quorum present to hear the appeal or make a decision.

- b. Consideration and possible action on appeal of Susan Bay to grant a variance from the required setbacks for a roof over existing deck in the M-L zoning district pursuant to sec. 17.19(3) of the Zoning Code to allow a setback of approximately 25 feet. The property is located at 602 N Main St. (parcel # 216-0605) legally described as PT OF LOTS 36, 37, 38, 39 & 40 MADDIN'S ADDITION.

Gilles gave the board the written format to follow that was previously provided by City attorney Eric Hagen.

The first part of the 3 part test to assess whether or not to grant a variance discussed was the "Unnecessary hardship".

Luecke motioned that the unnecessary hardship test is being met due to the fact that it is a hardship to the public as far as accessing the building without the roof that was built, second by Chitwood. Voice vote was taken with Chitwood and Luecke voting yes, and Schroeder voting no. Motion carried 2-0

The second part of the 3 part test to assess whether or not to grant a variance discussed was the "Unique property aspect".

Chitwood motioned that the unique property aspect was being met due to the location of the existing building already being too close to the property line in question per the current ordinance, seconded by Luecke. Voice vote. Motion carried 3-0

The 3rd part of the 3 part test to assess whether or not to grant a variance discussed was the "Harm to Public Interest".

Chitwood motioned that there was no harm to the public interest created by the roof that was built, seconded by Luecke. Voice vote 3-0

Luecke motioned that the variance requested be granted, second by Chitwood. Voice vote. Motion carried 3-0 with the condition that any required building permits be obtained.

- 6. Adjourn and next meeting date.



Board of Zoning Appeals Meeting
Wednesday, December 14, 2022 @ 5:00 PM
City Hall Council Chambers

Motion by Schroeder to adjourn, second by Luecke. Voice vote 3-0
Next Meeting Date : TBD

Minutes by Larry Gilles

DRAFT

Section 10, Item #2

Amended

Variance Application

A variance is a relaxation of a standard in a land use ordinance. Variances are decided by the zoning board of adjustment/appeals. The zoning board is a quasi-judicial body because it functions almost like a court. The board's job is not to compromise ordinance provisions for a property owner's convenience but to apply legal criteria provided in state laws, court decisions and the local ordinance to a specific fact situation. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden.

Process

At the time of application you will be asked to:

1. **Complete an application** form and submit a \$300 fee;
2. **Provide detailed plans** describing your lot and project (location, dimensions and materials);
3. **Provide a written statement** of verifiable facts showing that your project meets the legal criteria for a variance (Three Step Test in Part 2); and
4. **Stake out lot corners or lines**, the proposed building footprint and all other features of your property related to your request so that the zoning board may inspect the site.

Following these steps, the Zoning Administrator will publish notice of your request for a variance in the county's official newspaper noting the location and time of the required public hearing before the zoning board. The burden will be on you as property owner to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of hearing. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and must then deny your application.

Amended
Variance Application
Continuation
City of Dodgeville Zoning Board of Appeals

Part 1: General information and alternatives analysis

To be completed jointly by the applicant and zoning staff.

Petition # _____ Date filed 1/10/23 \$ 300 fee paid (payable to City of Dodgeville)

	Owner/agent	Contractor
Name	John/Nancy Meyers	Midwest Roofing + Constr.
Address	3110 County Rd K Barneveld WI 53507	4949 County Road YZ Dodgeville
Phone	608 574-9240	608 574-8022
Email	meyersjohn@live.com	jeff@midwestroofingpros.com

Legal description: ☐ 1/4, ☐ 1/4, S ☐ , T ☐ N, R ☐ E

City/Village/Town of Dodgeville

Address 313 County Rd YZ Tax parcel number 216-302

Lot area & dimensions: 189,150 sq. ft., 485 x 390 ft.

Zoning district ??? B-H

Current use & improvements:

Self Storage Units 51 units on site
(100 units on Quarry St)

Description of any prior petition for appeal, variance or conditional use:

Conditional Use Permit issued in 2021

Description and location of all nonconforming structures & uses on the property:

SE lot line is parallel to Brown Street ROW

Ordinance standard from which variance is being sought (section number and text):

Describe the variance requested:

Request for reduced set back on the SE lot line along Brown Street. 15' set back to that Brown Street edge. Street right of way is unused brushy waste land. Normal setback is 25' 10' reduction of that setback requested

Type of variance requested:

☐ use variance – Use variances are not granted.

☒ area variance – provides an increment of relief (normally small) from a physical dimensional restriction such as a building height or setback.

Describe the effects on the property if the variance is not granted:

There is no zoning for Self Storage businesses. Our goal is to utilize our property to the fullest extent. The excessive setback hinders our layout for best use of our land. Our site plan + building layout was engineered. We have gotten similar setback waiver in 2013. We were told a similar waiver could be awarded.

Alternatives

Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered in each category below.

- a. Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

Alternative is for us to not use our land as we were promised. Dodgeville residents will have to go out of the city for self storage. We have plans for more buildings to meet demand. We should consider locations outside the city limits.

- b. Alternatives you considered that require a lesser variance and reasons you rejected them. If you reject such alternatives, provide the reasons you rejected them.

If we would have been told at the time of purchase that a variance was not allowed, we would locate outside the city. We gave up too much land to the \$104,000 water retention. A township location would be a better choice. We were not told that Dodgeville did not have self storage zoning.

We should have went elsewhere with the business.

Part 2: Three-Step Test

To qualify for a variance, the applicant must demonstrate that their property meets the following three requirements.

1) Unique property limitations (To be completed by the applicant)

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance.

Do unique physical characteristics of your property prevent compliance with the ordinance?

☒ Yes. Where are they located on your property? Please show the boundaries of these features on the site map that you used to describe alternatives you considered.

☐ No. A variance cannot be granted.

See attached Map

2) No Harm to Public Interests (To be completed by zoning staff)

A variance may not be granted which results in harm to public interests. In applying this test, the zoning board must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Public health, safety and welfare
- Water quality
- Fish and wildlife habitat
- Natural scenic beauty
- Minimization of property damages
- Provision of efficient public facilities and utilities
- Achievement of eventual compliance for nonconforming uses, structures and lots
- Any other public interest issues

Ordinance purpose:

Purpose(s) of standard from which variance is requested:

In order to allow us 100% paved lot we built the minimum detention pond. We collect water runoff from the city of Dodgeville Brown Street (not our fault) We get water from 2 lots west of us as well. The Hamane Society + and next lot west of them - Neither has water retention. We installed 3 storm sewer inlets + piping to handle excess water. But we also have surface ditches to accomodate every one's water. One of these ditches is in variance area. If the city had a proper street + storm water handling system we wouldn't have all the water

Analysis of impacts

Discuss impacts that would result if the variance was granted. For each impact, describe potential mitigation measures and the extent to which they reduce project impact (completely, somewhat, or minor). Mitigation measures must address each impact with reasonable assurance that it will be reduced to an insignificant level in the short term, long term and cumulatively.

Short term impacts: (through the completion of construction)

Impact 1:	Impact 2:
Water could be handled better	
Mitigation 1:	Mitigation 2:
Maintain our ditches + Storm water drain	
Extent to which mitigation reduces project impact	Extent to which mitigation reduces project impact:
Our water management is second to no one in the city limit. But denying variance harms our plan.	

Long term impacts: (after construction is completed)

Impact 1:	Impact 2:
Same as above	
Mitigation 1:	Mitigation 2:
We are already handling water	
Extent to which mitigation reduces project impact:	Extent to which mitigation reduces project impact:
100% mitigate negative impacts	

Cumulative impacts: (What would happen if a similar variance request was granted for many properties?)

Impact 1:
None
Mitigation 1:
Extent to which mitigation reduces project impact:
Impact 2:
Mitigation 2:
Extent to which mitigation reduces project impact:

Will granting the variance harm the public interest?

- ☐ Yes. A variance cannot be granted.
- ☒ No. Mitigation measures described above will be implemented to protect the public interest.

3) Unnecessary hardship (To be completed by the applicant)

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

- For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.¹ The Wisconsin Supreme Court also determined that living without a lakeside porch was a personal inconvenience and did not constitute unnecessary hardship.² The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.

Is unnecessary hardship present?



Yes.

Describe:

At the October Hearing everyone on the review board agreed

- 1) There is no zoning in Dodgeville for Self Storage
- 2) The B-H set back are excessive + serve no purpose. (restricts commerce)
- 3) Dodgeville lacks storage space (Public Hardship)
- 4) Set backs eat up 24% of our land results in extra 1.05 acres out of 4.34
- 5) Changing interpretation of rules without



No. A variance cannot be granted

¹ *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401 and *State v. Waushara County Bd. of Adjustment*, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514

² *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 478-79, 247 N.W.2d 98 (1976)

→ notice or public hearing is a clear hardship. The tightening of rules after significant purchase is a hardship. The excess water from Brown Street, and neighboring properties required more ditching and on storm water drains This was not anticipated. We were told we could get a variance. We have waited since October for a completed variance hearing, sat through 3 hearings. Our project scheduled for October had to be changed - more hardship.

Part 3: Construction Plans

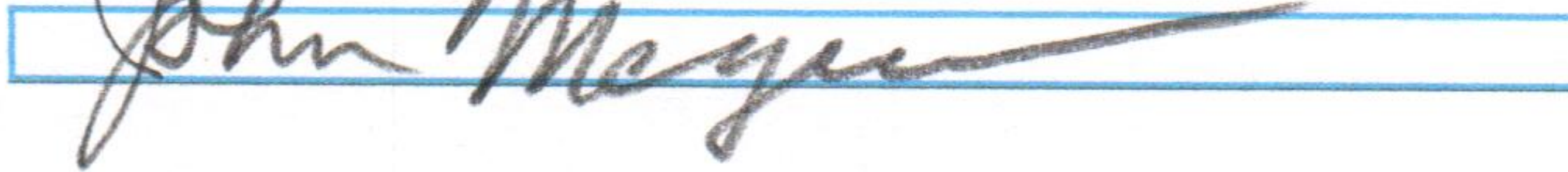
To be completed and submitted by the applicant.

Attach construction plans detailing:

- ☐ Property lines
- ☐ Vegetation removal proposed
- ☐ Contour lines (2 ft. interval)
- ☐ Floodplain & wetland boundaries
- ☐ Dimensions, locations & setbacks of existing & proposed structures
- ☐ Utilities, roadways & easements
- ☐ Location & extent of filling/grading
- ☐ Location & type of erosion control measures
- ☐ Any other construction related to your request
- ☐ Anticipated project start date

I certify that the information I have provided in this application is true and accurate.

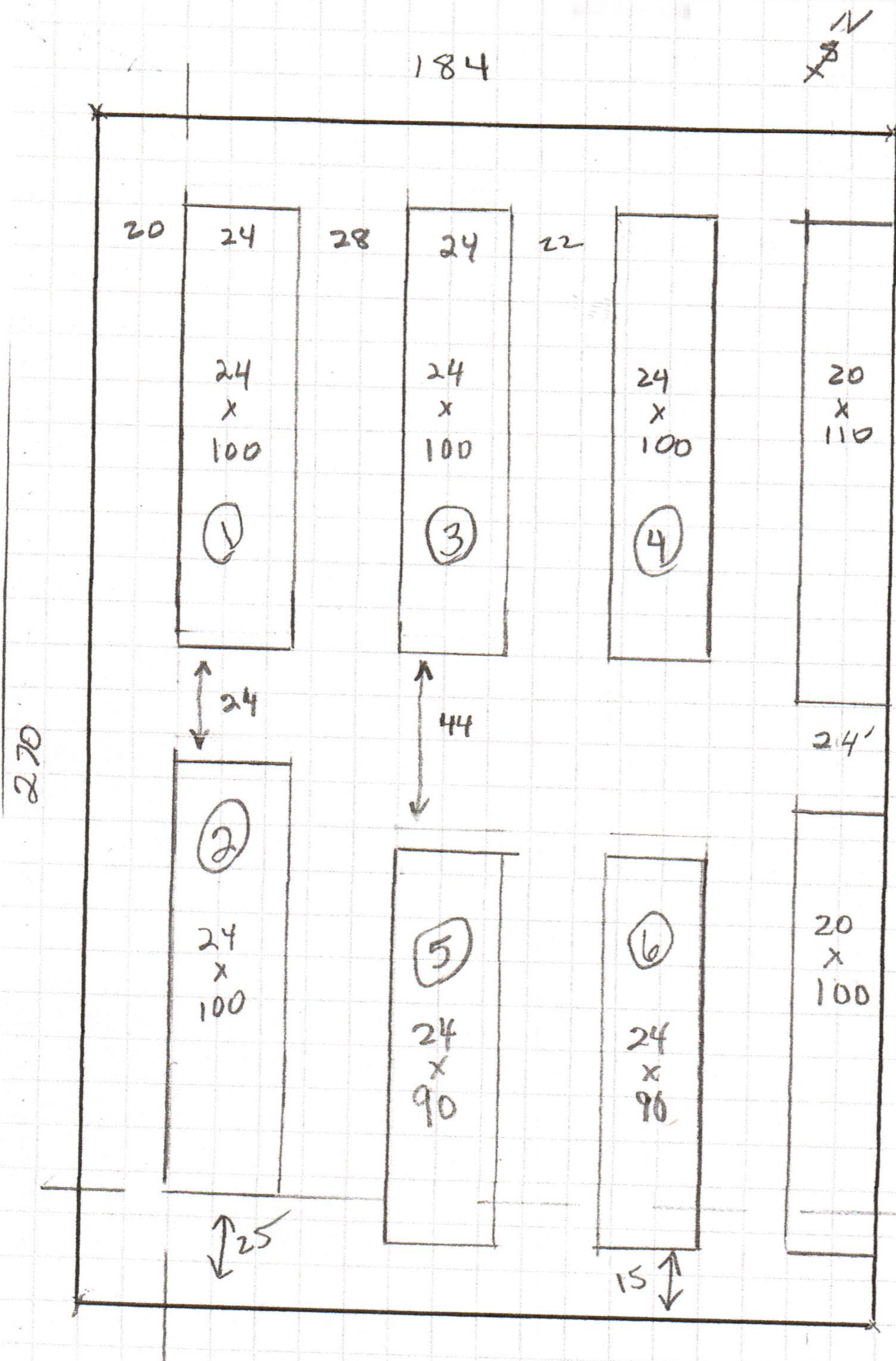
Signed: (applicant/agent/owner)



Date: 01/31/2023

Remit to: Building Inspector
100 E Fountain St. Dodgeville, WI 53533
buildinginspector@dodgevillewi.gov

2/1/23 Updated Plan



17.18 B-H GENERAL HIGHWAY BUSINESS DISTRICT. The B-H District is established to provide for the establishment of principally motor vehicle-oriented or dependent commercial activities in nonresidential settings. Lot dimensional requirements are established to provide for the orderly grouping of commercial uses and for adequate off-street parking.

(1) PERMITTED USES.

- (a) Automotive sales, servicing and repairs.
- (b) Cleaning, dyeing and pressing establishments.
- (c) Construction/contractor shops
- (d) Convenience stores.
- (e) Department stores and discount stores.
- (f) Banks.
- (g) Restaurants.
- (h) Feed and seed stores.
- (i) Locker plants.
- (j) Gasoline and service stations, providing all gas pumps are not less than 30 feet from any existing or proposed street line.
- (k) Laundromats.
- (l) Lumber and contractor's yards.
- (m) Motels.
- (n) Plumbing and heating shops.
- (o) Printing and related trades.
- (p) Publishing, including newspaper publishing, job printing, lithographing and blueprinting
- (q) Recreational and entertainment establishments.
- (r) Shopping centers.
- (s) Supermarkets.
- (t) Taxidermists.
- (u) Tourist information and hospitality centers.
- (v) Veterinary clinics.
- (w) (Cr. Ord. #988) All permitted uses in the B-C Central Business District.

(2) CONDITIONAL USES. (a) Farm machinery and equipment sales, repair and storage.

- (a) Painting businesses.
- (b) Other uses similar in character to the permitted uses, giving due consideration to such items as noise, odor, pollution, traffic and parking, safety, hours and type of operation.
- (c) (Cr. Ord. #1169) Churches and similar places of worship and instruction.
- (d) See sec. 17.26(1) of this chapter.

(1) LOT, YARD AND BUILDING REQUIREMENTS.

Lot frontage.....	Minimum 100 ft.
Lot area.	Minimum 20,000 sq. ft.
Front yard.....	Minimum 50 ft.
Side yards.....	Minimum 20 ft.
Rear yard.	Minimum 25 ft.
Building height.....	Maximum 35 ft.
Number of stories.....	Maximum 2-1/2

(2) OFF-STREET PARKING AND LOADING REQUIREMENTS. See sec. 17.26 of this chapter.

B-C Permitted Uses

- (a) Banks and other financial institutions, including loan and finance companies.
- (b) Clinics.
- (c) Cocktail lounges and taverns.
- (d) Commercial schools.
- (e) Hotels.
- (f) Newspaper offices and light service printers.
- (g) Parking facilities.
- (h) Professional and business offices.
- (i) Restaurants and taverns.
- (j) Retail stores.
- (k) Service establishments
- (l) Theaters and places of amusement.
- (m) Utility company offices.

Notified Property owners within 100 feet of parcel 216-1302

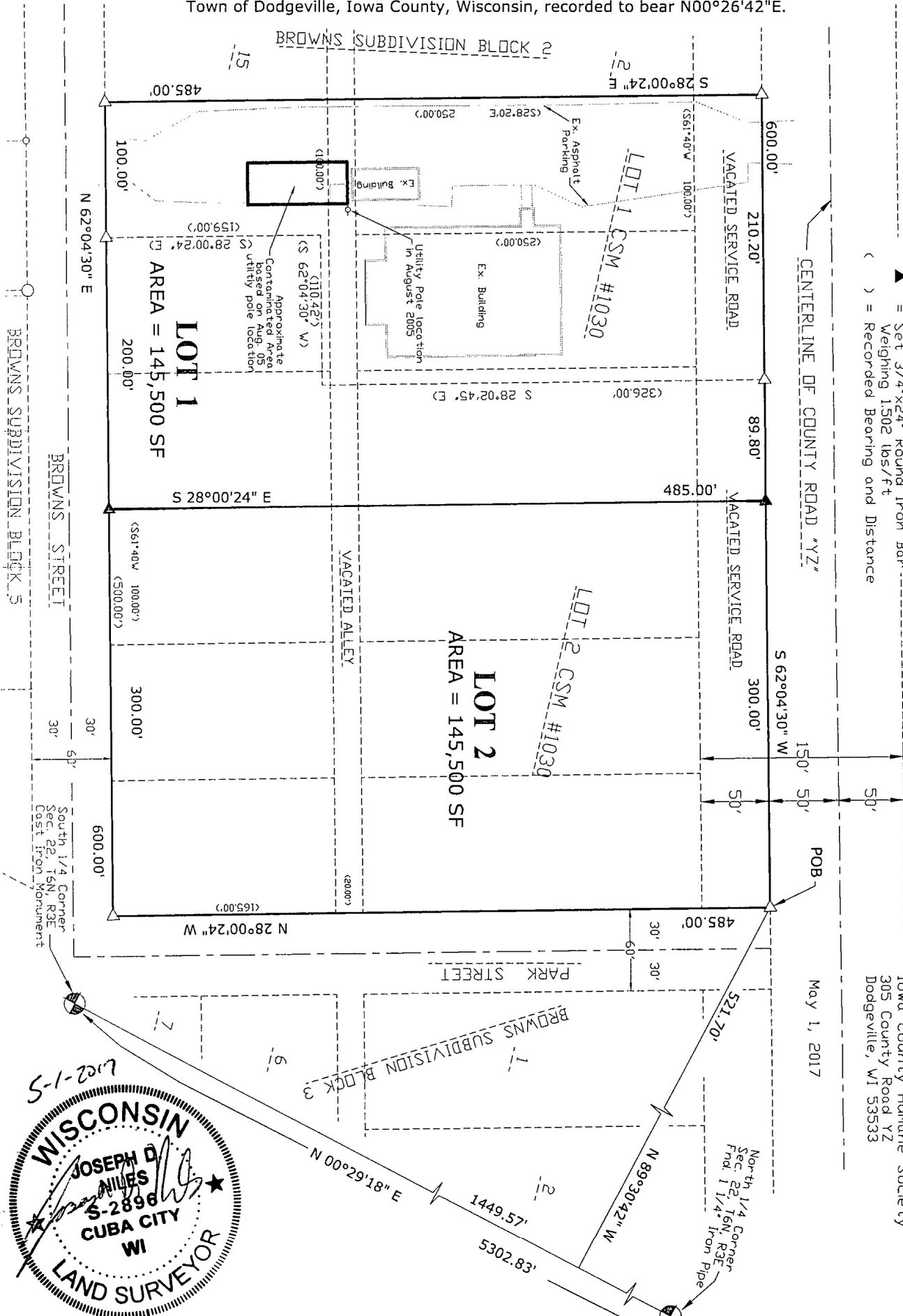
Owner	Parcel #	Parcel address
State of Wisconsin	216-1504	not assigned
State of Wisconsin	216-1502	not assigned
Iowa county Humane Society	216-1300	305 Cty Rd YZ
Oshcon Corporation	216-1333	313 Brown St.
Oshcon Corporation	216-1333.01	313 Brown St.
Store N Stuff	216-1320	not assigned
Store N Stuff	216-1319	not assigned
Store N Stuff	216-1318	401 Cty Rd YZ
Store N Stuff	216-1314	401 Cty Rd YZ

CERTIFIED SURVEY MAP 1609

Located in Lots 1 and 2 of CSM #1030 recorded in Vol. 7 of CSM's on Page 156 at the Iowa County Register of Deeds Office and being part of the SE 1/4 and NE 1/4 of the SW 1/4 of Section 22, T6N, R3E, City of Dodgeville, Iowa County, Wisconsin.

Section III. Item #2.

Bearings are referenced to the West line of the Southeast 1/4 of Section 19, T6N, R4E, Town of Dodgeville, Iowa County, Wisconsin, recorded to bear N00°26'42"E.



CERTIFIED SURVEY MAP 1609

Located in Lots 1 and 2 of CSM #1030 recorded in Vol. 7 of CSM's on Page 156 at the Iowa County Register of Deeds Office and being part of the SE 1/4 and NE 1/4 of the SW 1/4 of Section 22. T6N, R3E, City of Dodgeville, Iowa County, Wisconsin.

Section III. Item #2.

PARCEL DESCRIPTION:

Located in Lots 1 and 2 of CSM #1030 recorded in Vol. 7 of CSM's on page 156 of the Iowa County Register of Deeds and being part of the SE 1/4 and NE 1/4 of the SW 1/4 of Section 22, Town 6 North, Range 3 East, City of Dodgeville, Iowa County, Wisconsin, described as follows:

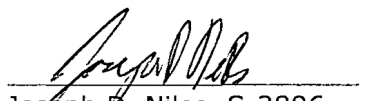
Commencing at the South 1/4 Corner of the said Section 22; thence N 00°29'18" E, 1449.57' along the East line of the SW 1/4 of said Section 22; thence N 89°30'42" W, 521.70' to a point on the South line of County Road "YZ" and the Point of Beginning; thence S 62°04'30" W, 600.00'; thence S 28°00'24" E, 485.00' to the SW corner of Lot 14 of Block 2 of Browns Subdivision; thence N 62°04'30" E, 600.00' to the Southeast corner of Lot 9 of Block 2 Browns Subdivision; thence N 28°00'24" W, 485.00' along the Westerly R.O.W. line of Park Street to the Point of Beginning.

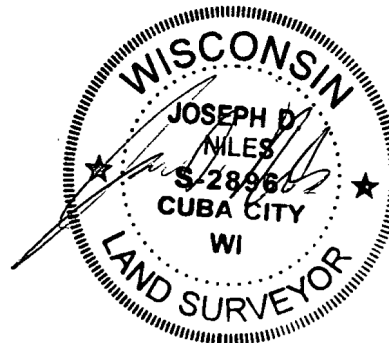
Said parcel contains 291,000 Sq. Ft. or 6.68 acres more or less and is subject to any and all easements and right-of-ways of record.

SURVEYOR'S CERTIFICATE:

I, Joseph D. Niles, Wisconsin Professional Land Surveyor, S-2896, do hereby certify that this survey is in full compliance with Section 236.34 of the Wisconsin Statutes. Under the direction of the owners and their representatives, I have surveyed, divided and mapped the above described land and that this map is a correctly dimensioned representation thereof in accordance to the information provided. I further certify that this survey is correct to the best of my knowledge and belief.

Dated this 15th day of May, 2017.


Joseph D. Niles, S-2896
Professional Land Surveyor

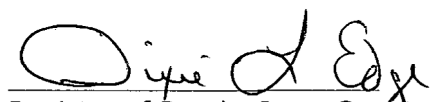


REGISTER OF DEEDS CERTIFICATE:

Received for recording this 11th day of May, 2017, At 1:40 o'clock, P.m. and recorded in

Volume 11 of Certified Survey Maps on Pages 216-217 as

Document Number 351798.


Register of Deeds, Iowa County
Dixie L. Edge