



# Board of Zoning Appeals Meeting

Whitewater Municipal Building Community Room,  
312 West Whitewater St., Whitewater, WI 53190  
\*In Person and Virtual

**Thursday, January 25, 2024 - 6:00 PM**

Citizens are welcome (and encouraged) to join our webinar via computer, smart phone, or telephone.  
Citizen participation is welcome during topic discussion periods.

**Board of Zoning Appeals**  
Jan 25, 2024, 6:00 – 8:00 PM (America/Chicago)

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/305001373>

You can also dial in using your phone.

Access Code: 305-001-373

United States: [+1 \(646\) 749-3122](tel:+16467493122)

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Please note that although every effort will be made to provide for virtual participation, unforeseen technical difficulties may prevent this, in which case the meeting may still proceed as long as there is a quorum. Should you wish to make a comment in this situation, you are welcome to call this number: (262) 473-0108.

## AGENDA

### CALL TO ORDER AND ROLL CALL

### APPROVAL OF AGENDA

*A councilmember can choose to remove an item from the agenda or rearrange its order; however, introducing new items to the agenda is not allowed. Any proposed changes require a motion, a second, and approval from the council to be implemented. the agenda shall be approved at reach meeting even if no changes are being made at that meeting*

- [1.](#) Approval of Minutes from December 7, 2023.

### SECRETARY PRESENTS CASE TO BE HEARD

- [2.](#) Applicant: RLA Properties

Property: 355 W. James Street

Relative Code: 19.15.060 Yard Requirements Side yard of 10 feet.

Variance Requested: To place new structure on old structure location that is only 4.5 feet from side property line.

### PRESENTATIONS

3. Board presentation of hearing procedures.

4. Applicant Presentation requesting Variance.
5. Statement by Planner
6. Public Comment and Input.
7. Written input presented.
8. Applicant response to statements.
9. Board deliberations of case (Open Session).
10. Board action on request, including findings regarding variance request.

**ADJOURN**

A written decision will be issued at a later date.

**Anyone requiring special arrangements is asked to call the Office of the City Manager / City Clerk (262-473-0102) at least 72 hours prior to the meeting.**



## Board of Zoning Appeals Meeting

Whitewater Municipal Building Community Room,  
312 West Whitewater St., Whitewater, WI 53190  
\*In Person and Virtual

**Thursday, December 07, 2023 - 6:00 PM**

Citizens are welcome (and encouraged) to join our webinar via computer, smart phone, or telephone.  
Citizen participation is welcome during topic discussion periods.

### MINUTES

#### CALL TO ORDER

Meeting was called order at 6:17 p.m.

#### ROLL CALL

Beverly Stone

Patrick Taylor

John Nelson

Lee Loveall was by phone

#### SECRETARY PRESENTS CASE TO BE HEARD

1. Applicant: RLA Properties  
Property: 315 W. James Street  
Relative Code: 19.15.060 Yard Requirements Side yard of 10 feet.  
Variance Requested: To place new structure on old structure location that is only 4.5 feet from side property line.

This matter was not heard due to a lack of quorum available to hear this matter. This matter was postponed to a later date.

2. Applicant: Jes Cisneros  
Property: 421 Indian Mound Parkway  
Applicable Code: 19.06.120-Fence Height  
Variance Requested: To exceed the 4 foot height in street yard.

#### PRESENTATIONS

The applicant presented his case seeking the variance due to the loudness of the street noise

along Walworth Avenue. He stated that it is affecting his family’s health. He also presented that there are at least three other properties who have six-foot high fences along the street side.

Planner presented her reasons for denying the permit. The side facing Walworth Avenue would be considered a street yard. This property is unique in that it has three street facing yards.

Board members questioned whether the proposed fence would create a vision triangle issue. Planner confirmed that the location of the proposed fence does not create any type of vision triangle issues. Board members also asked given the large road right away and that fact the his property line ends at the sidewalk whether this yard could be considered a street yard.

Taylor motioned to allow for the variance to be granted with a second from Nelson. Ayes: Stone, Taylor, Nelson and Loveall. Motion passed unanimously.

**ADJOURN**

Meeting was adjourned at 7:00 p.m.

**Anyone requiring special arrangements is asked to call the Office of the City Manager / City Clerk (262-473-0102) at least 72 hours prior to the meeting.**

**Print**

**Board of Zoning and Appeals Application Procedure - Submission #688**

**Date Submitted: 11/10/2023**

**City of Whitewater**  
Municipal Building  
312 W. Whitewater St  
Whitewater, WI 53190

**Board of Zoning Appeals Application Procedure**

**Notice**

The Board of Zoning Appeal meetings are scheduled on the 4th Thursday of the month. All complete plans must be in by 9:00 a.m. Monday prior to the 1st Thursday of the month. If not, the item will be placed on the next available Board of Zoning Appeal meeting.

**PLEASE COMPLETE THE FOLLOWING APPLICATION**

**Refer to Chapter 19.72 of the City of Whitewater Municipal Code of Ordinances, entitled BOARD OF ZONING APPEALS, for more information on the application.**

**SITE PLAN SUBMITTAL REQUIREMENTS**

1. Site plan, including location and dimensions of all buildings, parking, loading, vehicle and pedestrian circulation, signs, walls, fences, other structures, outdoor storage areas, mechanicals, and dumpsters. Adjacent streets and uses and methods for screening parking, loading, storage, mechanical, and dumpsters areas should be shown. Statistics on lot area, green space percentage, and housing density should be provided. The Plan Commission encourages compliance with its adopted parking lot curbing policy.
2. Natural Features Inventory map, showing the existing limits of all water bodies, wetlands, floodplains, existing trees with trunks more than 4 inches in diameter, and any other exceptional natural resource features on all or part of the site.
3. Landscape Plan, prepared by a professional, and showing an overhead view of all proposed landscaping and existing landscaping to remain. The species, size at time of planting, and mature size should be indicated for all plantings. Areas to be left in green space should be clearly delineated. The Plan Commission encourages compliance with its adopted landscaping guidelines, available from the Zoning Department.
4. Grading and drainage plan, meeting the City's stormwater management ordinance if required. The plan should show existing and proposed surface elevations on the site at two foot intervals or less, and proposed stormwater management improvements, such as detention/retention facilities where required. Stormwater calculations may be required.
5. Utilities plan, showing locations and sizes of existing and proposed connections to sanitary sewer, water, and storm sewer lines, along with required easements. Sampling manholes may be required for sanitary sewer. The City's noise ordinance must be met.
6. Building elevation, showing the dimensions, colors, and materials used on all sides of the building. The Plan Commission encourages variety and creativity in building colors and architectural styles, while respecting the character of the surrounding neighborhood.
7. Sign plan, meeting the City's sign ordinance, and showing the location, height, dimensions, color, materials, lighting and copy area of all signage.
8. Lighting plan, meeting the City's lighting ordinance, and showing the location, height, type, orientation and power all proposed outdoor lighting both on poles and on buildings. Cut sheets and photometric plans may be required for larger projects.

**1 full set, 15 11 x 17 and 1 Electric Copy (color copies if possible) should be submitted. All plans should be drawn to a scale of not less than 50 feet to the inch; represent actual existing and proposed site conditions in detail; and indicate the name, address, and phone number of the applicant, land owner, architect, engineer, landscape designer, contractor, or others responsible for preparation. It is often possible and desirable to include two or more of the about 8 plans on one map. The Zoning Administrator or Plan and Architectural Review Commission may request more information, or may reduce the submittal requirements. If any of the about 8 plans is not submitted, the applicant should provide a written explanation of why it is not submitted.**

**TO: THOSE REQUESTING A VARIANCE OF ZONING REQUIREMENTS**

**FROM: THE BOARD OF ZONING APPEALS**

**THINGS YOU WILL HAVE TO PROVE TO BE GRANTED A VARIANCE**

The Board of Zoning Appeals has the power "to hear and grant applications for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of the ordinance shall be observed and the public safety, welfare and justice secured." **USE VARIANCES WILL NOT BE GRANTED**

Item 2.

**Street Address of Property (if vacant land, describe in detail the property location);**

355 W. James St

**Legal Description of Property (Name of Subdivision, Block and Lot, or other legal description):**

/TR 00027C

**Agent or Representative Assisting in the Application (Engineer, Architect, Attorney, Etc.)**

**Agent or Representative First Name**

RANDALL

**Agent or Representative Last Name**

ASCHBRENNER

**Firm Name**

**Address**

**City**

**State**

**Zip Code**

**Office Phone Number**

**Office Fax Number**

**Email Address**

**Existing and Proposed Uses**

**Current Principal Use:\***

Single Family Home R-3 Zoning

**FINDINGS PREREQUISITE TO GRANTING A VARIANCE**

No variance to the provisions of this title shall be granted by the Board unless it finds beyond a reasonable doubt that ALL of the following facts and conditions exist, and so indicates in the minutes of its proceedings:

- A. The particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a practical hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
- B. The conditions upon which the application for a variance is based would be applicable generally to other property within the same zoning classifications;
- C. The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner;

The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

Please consider the above items in presenting your oral testimony, for a lack of such testimony may result in denial of the variance.

*All questions in the application must be answered.*

**Applicant's First Name\***

RANDALL

**Applicant's Last Name\***

ASCHBRENNER

**Applicant's Address\***

895 E. Briar Ridge Dr

**City**

Brookfield

**State**

WI

**Zip Code**

53045

**Applicant's Email\***

raschbrenner21@gmail.com

**Owner of Property Site as of date of application, according to current property tax records:**

RLA Properties LLC



**Accessory or Secondary Uses:\***

None.

**Proposed Use (Describe need for Variance):\***

Single Family Home R-3 Zoning

**Have you been granted any variances in the past, on any properties, whether fully or partially owned by you.\***

Yes

No

**If YES, list addresses of those properties and whether the requirements of the variance granted have been completed.**

**Plans to Accompany Application**

Applications for permits shall be accompanied by drawings of the proposed work, drawn to scale, showing, when necessary, floor plans, sections, elevations, structural details, computations and stress diagrams as the building inspector may require.

**Plot Plan**

When required by the building inspector, there shall be submitted a plot plan in a form and size designated by the building official for filing permanently with the permit record, drawn to scale, with all dimension figures, showing accurately the size and exact location of all proposed new construction and it's relationship to other existing or proposed buildings or structures on the same lot, and other buildings or structures on adjoining property within 15 feet of the property lines. In the case of demolition, the plot plan shall show the buildings or structures to be demolished and the buildings or structures on the same lot that are to remain.

**Zoning District in which the property is located:\***

R-3

**No. of Occupants Proposed to be accommodated:**

5

**No. of Employees, if applicable:**

0

**Section of the City of Whitewater Zoning Ordinance that prohibits the proposed usage of the property. It is this section of the Ordinance for which a variance is requested:\***

Requesting approval to use PREVIOUS house building envelope.

**STANDARDS**

The following are Standards that the City of Whitewater Zoning Ordinance sets for decisions on variances. Explain how your proposal meets these standards.

**A. The particular physical surroundings, shape, topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from mere inconvenience, if the strict letter of the regulations were to be carried out.\***

N/A.

**B. The conditions upon which the application for a variance are based would not be applicable generally to other property within the same Zoning classification.\***

N/A

**C. The purpose of the variance is not exclusively upon the desire for economic or other material gain by the applicant or owner.\***

No gain, just a ton of pain and financial hardship already absorbed by one of the better landlords in Whitewater.

**D. The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets, or increase the danger of fire or endanger the public safety, or substantially diminish or impair property values within the neighborhood.\***

None. Just replacing a 90+ year old home that was structurally compromised. This will be one of the nicest properties on this street.

**CONDITIONS**

The City of Whitewater Zoning Ordinance authorizes the Board of Zoning and Appeals to place conditions on approved variances. Please keep this in mind & supply ALL pertinent information.

**Applicant Signature\***

Randall Aschbrenner

**Date\***

11/10/2023

**AGREEMENT OF SERVICES**

**REIMBURSABLE BY THE PETITIONER/APPLICANT.**

The City may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the City's review of a proposal coming before the Plan Commission, Board of Zoning Appeals and/or Common Council. The submittal of a development application or petition by a Petitioner shall be construed as an agreement to pay for such professional review services applicable to the proposal. the City may apply the charges for these services to the Petitioner and/or property owner. The City may delay acceptance of the application or petition as complete, or may delay final approval of the proposal, until the Petitioner pays such fees. Review fees which are applied to the Petitioner, but which are not paid, may be assigned by the City as a special assessment to the subject property. The Petitioner shall be required to provide the City with an executed copy of the following form as a prerequisite to the processing of the proposed application (Architectural Review, B.Z.A., Planning, Zoning Change):

**Applicant Name\***

**the applicant/petitioner for**

Randall Aschbbrenner

**(Owner's Name)**

**Dated**

Randall Aschbrenner

11/10/2023

**Phone #**

**Tax Key #(s)**

608-843-0606

/TR 00027C

Agrees that in addition to those normal costs payable by an applicant/petitioner (e.g. filing or permit fees, publication expenses, recording fees, etc.), that in the event the action applied or petitioned for requires the City of Whitewater, in the judgement of its staff, to obtain additional professional service(s) (e.g. engineering, surveying, planning, legal) than normally would be routinely available "in house" to enable the City to properly address, take appropriate action on, or determine the same, applicant/petitioner shall reimburse the City for the costs thereof.

**Date this\***

**day of \***

**Year**

10th

November

2023

**Signature of Applicant\***

**Date\***

Randall Aschbrenner

11/10/2023

**Signature of Owner of Property**

Randall Aschbrenner

**APPLICATION FEES**

**Fee for Variance application-\$200.00**

Item 2.

**Date Fee received by City**

**Receipt #**

**Received by**

**Date Notice sent to owners of record:**

**By**

**Date(s) published in Newspaper**

**Date set for Hearing before Board of Zoning Appeals:**

## NOTICE OF ZONING HEARING

Publish in Whitewater Register on December 28, 2023 and January 4, 2024

TO ALL CONCERNED:

A public hearing will be held by the Board of Zoning Appeals of the City of Whitewater on January 25, 2024 at 6:00 p.m. in the Whitewater Municipal Building Community Room, 312 W. Whitewater Street, Whitewater, Wisconsin.

Applicant: RLA Properties

Property Location: 355 W James Street Parcel #/TR 00027C

Applicable Code: Zoning Code Ordinance: 19.15.060 – Yard Requirements Side yard of 10 feet

Variance Requested: Variance requested to place new structure on old structure location that is only 4.5 feet from the side property line.

Reason for Request: Original primary structure was not salvageable and had to be removed. Garage was maintained in its location on property.

This notice is being mailed to owners of record within 300 feet of the property in question, to the City Planner and the Plan Commission in accordance with Section 19 of the Code of Ordinances. THE PROPOSAL FILED BY THE OWNER IS NOW OPEN TO PUBLIC INSPECTION AT THE OFFICE OF THE CITY PLANNER DURING NORMAL BUSINESS HOURS (Monday – Friday 8:00 a.m. to 4:30 p.m.)

BOARD OF ZONING APPEALS

Heather Boehm, Secretary, BZA  
By: Llana Dostie, Neighborhood Services - Admin Asst.

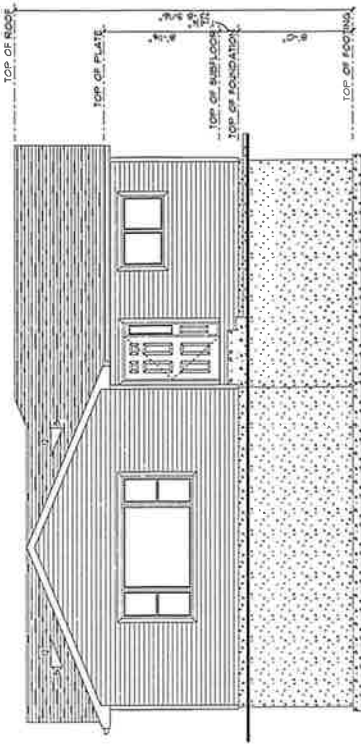
Dated: December 26, 2023

REVISIONS  
 12/21/22  
 12/21/22  
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 12/21/22

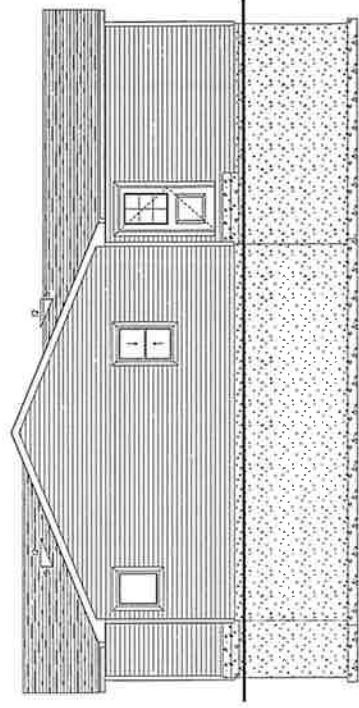
NEW RESIDENCE FOR:  
 RANDALL ASCHBENNER  
 2026 JAMES ST.  
 PORTLAND, OR

SCALE: 1/4"=1'-0"	SHEET NUMBER: 1 of 2	DATE: 12/21/22
DRAWN BY: NICK CUPBLAD		
SHEET TITLE: ELEV'S, ROOF		

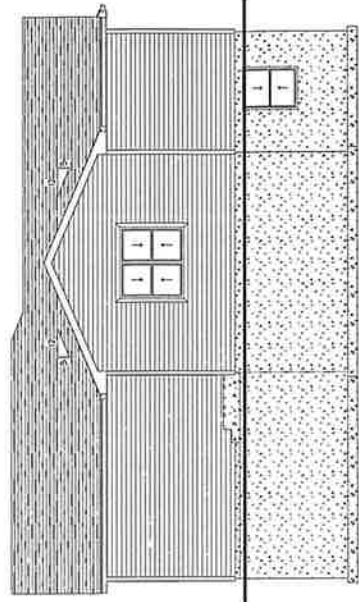
Item 2.



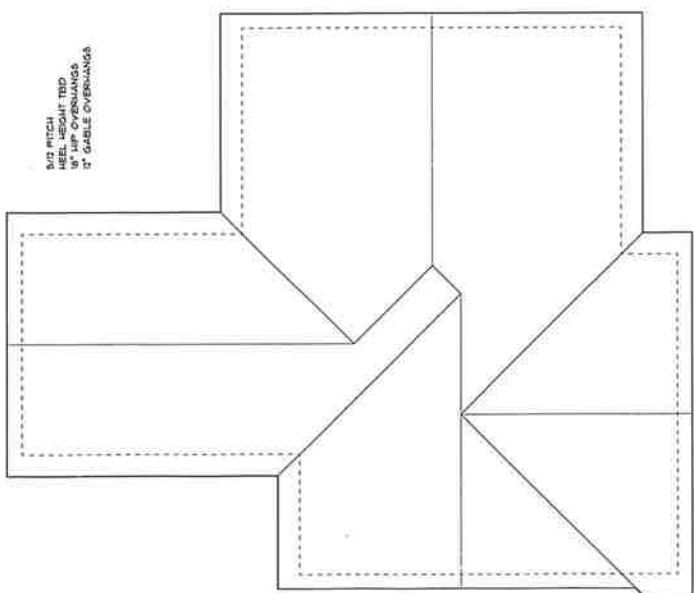
FRONT ELEVATION



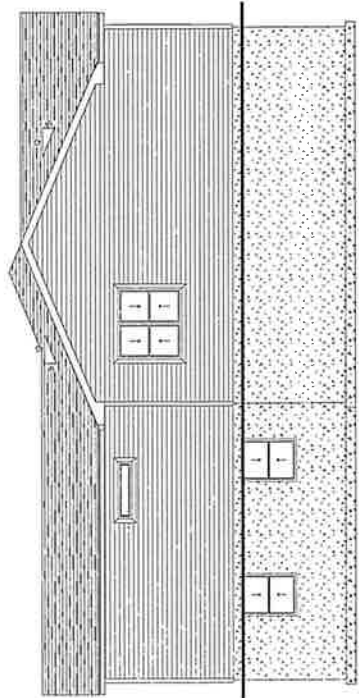
RIGHT ELEVATION



REAR ELEVATION



ROOF PLAN



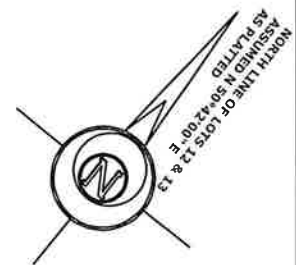
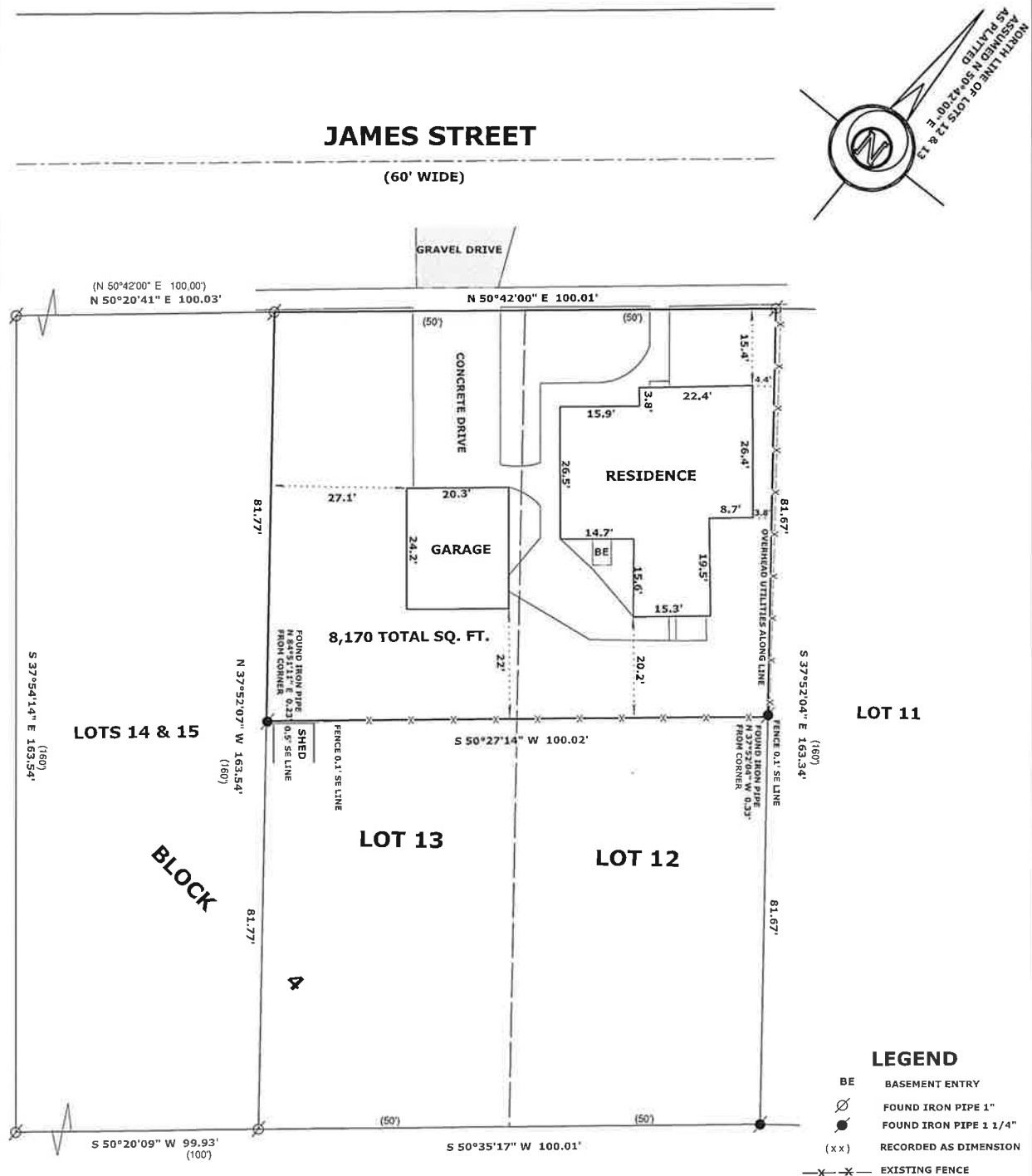
RIGHT ELEVATION

5/8" PITCH  
 EVEL HEIGHT TBD  
 18" MIN OVERHANGS  
 12" GABLE OVERHANGS



**PLAT OF SURVEY**

THE NORTHWESTERLY 1/2 OF LOTS 12 AND 13 IN BLOCK 4 OF TRIPP'S ADDITION TO THE VILLAGE, NOW CITY, OF WHITEWATER LOCATED IN THE SOUTHWEST 1/4 OF SECTION 4, TOWN 4 NORTH, RANGE 15 EAST, CITY OF WHITEWATER, WALWORTH COUNTY, WISCONSIN.



- LEGEND**
- BE BASEMENT ENTRY
  - FOUND IRON PIPE 1"
  - FOUND IRON PIPE 1 1/4"
  - (x x) RECORDED AS DIMENSION
  - X-X- EXISTING FENCE

SCALE: 1 INCH = 20 FEET

"I hereby certify that the above described property has been surveyed by me or under my direction 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, roadways and visible encroachments, if any." This survey is made for the use of the present owners of the property, and also those who purchase, mortgage, or guarantee the title thereto within one year from date hereof."

**ANN STREET**  
(60' WIDE)

MARK L. MIRITZ  
 WISCONSIN PROFESSIONAL  
 LAND SURVEYOR S-2582  
 DATE: NOV. 7, 2019 JOB NO. 19.1101



*To the members of the zoning Board of Appeals*

I am the owner of the property at 347 James Street and will be most affected by this variance.

I am writing this letter to request that the Board of Zoning Appeals not approve the variance application by the applicant to build a structure about 4.5 feet from the property line between 347 James Street and 355 James Street.

This property is zoned R-3 which allows for multiple family dwellings and could as R-3 zoning become an apartment building.

The original single family house was legal non-conforming under the R-3 Zoning and was a rental property.

The applicant demolished that house in 2020 and under the zoning ordinance did not replace the house in time.

This is R-3 zoning which requires a 15 foot sideyard setback per city of Whitewater zoning code.

Therefore a new structure should now meet the R-3 sideyard setback of 15 feet.

As the applicant is a developer, I am concerned a new structure will be a rental property or will be sold.

I am also concerned that during construction that close to my property could damage my property. If the new structure is allowed to be 4.5 feet from my property line the excavation to put in cement footings could affect my property

I am requesting that the zoning board of appeals deny the variance request to build a new structure about 4.5 feet from the property line. I believe that this will not allow for space between buildings if other property owners ask for a 4.5 foot setback. If the zoning board of appeals approves this variance then it may set a precedent for other applicants to ask for a 4.5 foot variance setback. If everyone in a R-3 zoning district requested a 4.5 foot setback for new structure, I am concerned that there would not be enough space for firefighters to have adequate access during potential fire as large density apartments are allowed either by permitted use or conditional use in R-3 zoning areas.

The property at 355 James Street has 100 foot of street frontage along James Street. This should allow for 70 feet of buildable frontage along James Street so there should be enough space to build a house and still comply with the 15 foot sideyard setback.


I am also concerned that any stormwater runoff from the structure roof could affect my property. Will the roof overhang be closer than 4.5 feet?

Are there any bay windows or other bumpouts that extend beyond the 4.5 feet?

In conclusion, please consider not setting a possible precedent for other developers to believe they are also entitled to reduce their sideyard setback to as close as 4.5 feet to the neighbor's property line in an R-3 district.

I am attaching emails from previous zoning administrator Christine Munz-Pritchard to RLA property owner addressing the 15 foot sideyard setback in the R-3 zoning and also the requirement that the new structure be built within 1 year of house demolition in order to use the old approximate house footprint.

Again, I request that you deny the variance appeal.  
Thank you for your consideration of this request.  
Sincerely,

  
Beverly Stone

enclosure:

email from Randall Aschbrenner to Christine Munz-Pritchard dated Dec. 2, 2020 12:51 PM

email response from Christine Munz-Pritchard to Randall Aschbrenner dated  
Dec. 2, 2020 1:03 PM

email from Christine Munz-Pritchard to Mr. Aschbrenner dated Sep. 18, 2019

Memorandum To: R.L.A. Properties From: Christine Munz-Pritchard dated May 13, 2020

**Liana Dostie**

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**From:** Christine Munz-Pritchard <CMunz-Pritchard@whitewater-wi.gov>  
**Sent:** Wednesday, December 2, 2020 1:03 PM  
**To:** Randall Aschbrenner  
**Cc:** Wallace McDonell; Kahube dba MZIS  
**Subject:** RE: 355 W. James St  
**Attachments:** letters.pdf

The orders given were for a roof repair. I have attached the letters. You decided to demo the building. I explained to you this is a nonconforming lot and you had to begin construction within a year. I also waved all the fines for you with the expectation that you would keep your word and being construction.

Chris Munz-Pritchard

**From:** Randall Aschbrenner <raschbrenner21@gmail.com>  
**Sent:** Wednesday, December 2, 2020 12:51 PM  
**To:** Christine Munz-Pritchard <CMunz-Pritchard@whitewater-wi.gov>  
**Cc:** Wallace McDonell <wkm@hmattys.com>; Kahube dba MZIS <municipalzoningandinspection@gmail.com>  
**Subject:** Re: 355 W. James St

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Chris,

If no extension is granted til the end of 2022, what extension can I get? Til the end of 2021 to pull building permits? If the original building permit was issued 2/10/2020 and was changed to a demo permit that was paid on 3/24/2020. The house was finally removed 10/14/2020. What is my official deadline to obtain a building permit so I can use the existing structure footprint?

This was an unexpected project to begin with. The holding costs on the lot are a huge financial burden. The rental market in Whitewater is in bad shape, material costs are up almost 160% since Covid. I think it is a bad idea to build a house in this current environment with no upside given the student housing market, regular rental market and selling a new home in this location would never pencil out. I waited almost 6 months for my excavator to remove the house and getting proper bids from contractors is near impossible right now.

Thank you,

Randall

On Wed, Sep 18, 2019, 8:42 AM Christine Munz-Pritchard <CMunz-Pritchard@whitewater-wi.gov> wrote:

Mr. Aschbrenner,

355 W James St is zoned R-3. Below are the yard requirements (building envelop) for this zoning district.

**19.21.060 - Yard requirements.**

**SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD (DOCX) OF SECTIONEMAIL SECTION**

- A. Front, thirty feet first floor.
- B. Side, fifteen feet; corner lots twenty-five feet.
- C. Rear, thirty feet.
- D. Shore, seventy-five feet. All shoreland shall be in compliance with Chapter 19.46, and in addition may require DNR approval.

Thanks,

Chris Munz-Pritchard

Neighborhood Services Director / City Planner

312 W Whitewater St.

PO Box 178

Whitewater, WI 53190



Neighborhood Services Department  
*Planning, Zoning, Code Enforcement, GIS  
 and Building Inspections*

www.whitewater-wi.gov  
 Telephone: (262) 473-0540

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## MEMORANDUM

To: R.L.A. Properties LLC

From: Christine Munz-Pritchard

Date: May 13, 2020

Re: 355 W James St, Whitewater WI Tax ID# /TR 00027C

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The property has building maintenance and repair orders. This year the Neighborhood Services Department received a zoning and building permit application of the property located at 355 W James St, Tax Key Number /TR 00027C in response to the repair order. It was approved by the building inspector on 2/10/2020. The total cost for the permit was \$77.50 and was paid for on 2/19/2020.

On 3/24/2020, the City received a Demolition Permit for the same location. The demolition permit voids the building permit issued on 2/10/2020. The City is issuing a refund of \$77.50 for the 2/10/2020 building permit.

This building is a nonconforming structure and per 19.60.030 (A) - Discontinuance or replacement of nonconforming use or structure. If such nonconforming use or structure is discontinued or terminated for a period of twelve months, any future use of the structures, land or water shall conform to the provisions of this title. A building permit-zoning permit will need to be issued when construction begins. Per 19.09.609 - Start of construction. "Start of construction" means the date the building or zoning permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within six months of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured or mobile home on a foundation. Issuing of the building and zoning permits shall expire in six months unless substantial work has commenced and is continuing in a progressive, workmanlike manner.

Additionally, it looks like information for the demo permit is missing some things. The permit requires a plumbing permit, inspection for asbestos (this may not apply to single family), erosion control, will there be fencing and a inch of top soil with grass planted and so on. There is nothing attached. Please let the building inspectors know that plans on the missing information.

KEVIN GREEN  
365 W ANN ST  
WHITEWATER, WI 53190

ALEJANDRA G GONZALEZ  
353 W ANN ST  
WHITEWATER, WI 53190-9000

CITY OF WHITEWATER 'PUMP H  
312 W WHITEWATER ST  
WHITEWATER, WI 53190-9000

CITY OF WHITEWATER 'PUMP HOUSE'  
312 W WHITEWATER ST  
WHITEWATER, WI 53190-9000

BRET BUCHANAN  
MICHAEL HUDEC  
319 W JAMES ST  
WHITEWATER, WI 53190-9000

ELENA PARTIDA  
371 W ANN ST  
WHITEWATER, WI 53190

MARC L LINSE  
338 W ANN ST  
WHITEWATER, WI 53190

FAYE A ENGBRETSON  
340 W ANN ST  
WHITEWATER, WI 53190

BEVERLY J STONE  
DAVID NEIL STONE  
303 W ANN ST  
WHITEWATER, WI 53190-9000

RLA PROPERTIES LLC  
895 E BRIAR RIDGE DR  
BROOKFIELD, WI 53045-5200

ALFREDO RAMIREZ  
366 W ANN ST  
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JOSHUA BROWN  
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Neighborhood Services Department  
 Planning, Zoning, Code Enforcement, GIS  
 and Building Inspections

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January 16, 2024

Staff Memorandum  
 Zoning Board of Appeals  
 RE: 355 W James Street

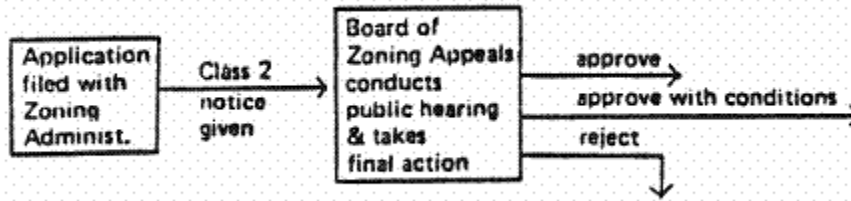
### Project History

The applicant Randall Aschbrenner of RLA Properties, LLC, property owner of 355 W James Street requested a variance to construct a new single family principal structure with relief from front yard, side yard, and rear yard setbacks, on an existing lot where a nonconforming structure was demolished in 2020. The requested variance is for the new construction with setbacks that do not meet the current requirements of the R-3 zoning district in which the property is located in. The applicant is requesting an interior side yard setback of 3.8 feet at the narrowest point, **(our code requires 15 feet)**, a front yard setback of 15.4 feet, **(our code requires 30 feet)**, and a rear yard setback of 20.2 feet, **(our code requires 30 feet)**.

### Findings prerequisite to grant of variance.

No variance to the provisions of this title shall be granted by the board unless it finds beyond a reasonable doubt that all of the following facts and conditions exist, and so indicates in the minutes of its proceedings:

- A. The particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
- B. The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification;
- C. The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner;
- D. The hardship is not one that is self-created;
- E. The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhoods;
- F. The proposed variance will not have the effect of permitting a use which is not otherwise permitted in the district;
- G. No variance shall be granted in a floodland district where not in compliance with Section 19.46.070C.4. of this title.



**Decisions—Time limit—Additional conditions—Expiration and extensions.**

- A. The board of zoning appeals shall decide all appeals and applications within thirty days after the final hearing, and shall transmit a signed copy of the board's decision to the appellant or applicant, zoning administrator, and city plan commission
- B. Conditions may be placed upon any zoning permit ordered or authorized by this board.
- C. Variances, substitutions or zoning permits acted upon by the board shall expire within six months unless substantial work has commenced pursuant to such grant. Extension may be granted by decision of the board.

**Following are some excerpts from Wisconsin State Statutes 62.23(7)(e)7 relating to Board of Appeals:**

b. The board of appeals shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

d. A property owner bears the burden of proving "unnecessary hardship," as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

**Staff Recommendation**

The proposed principal structure would create a greater degree of nonconformity within the City of Whitewater, and previous nonconforming use has ceased existence for over 12 months. The proposed residence would impede on adjacent properties, and the hardship is self-imposed, as the lot is conforming in size, and the property owner has adequate room to build on it while meeting all setback requirements of the R-3 Zoning District.



Staff Recommends the application for a Variance on the property located at 355 W James Street **be denied**

Item 5.

Regards,

Allison Schwark  
Municipal Code Enforcement  
Zoning Administrator  
262-249-6701  
mcodeenforcement@gmail.com