

*****ATTACHMENTS*****

APPEAL FROM RULING OF THE BUILDING INSPECTOR
AND/OR ZONING ADMINISTRATOR

CASE NO. 2.1 12.6.18
FILING DATE 11-28-18 / processed
RECEIPT NO. 814146
ZONING DIST. NRD SR-5

TO: THE ZONING BOARD OF APPEALS, CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WI

- 1). Appeal Location (address): 120 Superior Ave, Sheboygan (upper)
- 2). Applicant: 1330 N. 5th St. Telephone #: (920) 451-1330
Address: Sheboygan, WI 53081
- 3). Legal Property Description (Lot, Block, Subdivision, etc.) See attached
- 4). Type of Building (Circle): Commercial - Industrial - Institutional - Residential - Apartment - Other (if other)
please list: Residential
- 5). Request for (Circle): New Construction - Repairs - Alterations - Addition - Nonconforming Use - Other
(if other) please list: _____
- 6). If the request is for a nonconforming use:
Your intended use: _____
Date last occupied as a nonconforming use: _____
By Whom: _____ Previous use: _____
- 7). Applicants interest in property: Owner
- 8). Describe the requested variance and grounds for refusal of a permit.
See attached
- 9). What unnecessary hardship or difficulty is caused by following the regulations or requirements of the ordinance?
See the attached "The Three Tests For A Variance" and be prepared to argue how you pass the THREE TESTS
FOR A VARIANCE.:

I HEREBY CERTIFY THAT THE ABOVE APPLICATION AND/OR APPEAL AND ALL ATTACHMENTS THERETO ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Date: Nov. 28, 2018
Signature: Eleanor A. Jung
Mailing Address: 1330 N. 5th Street
Sheboygan, WI 53081

THE THREE "TESTS" FOR A VARIANCE

The CITY OF SHEBOYGAN adheres to a set of Zoning Ordinances to make certain that your proposed construction is consistent with neighboring developments, that a development does not infringe on the enjoyment of property belonging to neighboring owners, that it does not detract from surrounding buildings or lots and is not out of character with the neighborhood, and that a project meets necessary public health and safety standards. If your proposed construction cannot meet the requirements of the zoning code or sign code, a **VARIANCE** is needed.

To obtain a variance, you must establish that, due to some peculiarity of the property's size, shape, topography, etc., it would be a hardship or practical difficulty to meet zoning code requirements. ***These circumstances must not be self-imposed or self-created.*** In short, your proposed construction must meet and pass the three "tests" for a variance listed below.

IT IS RECOMMENDED THAT YOU MEET WITH THE STAFF IN THE CITY'S PLANNING DEPARTMENT AND BUILDING INSPECTION DEPARTMENT BEFORE SUBMITTING YOUR APPLICATION FOR A VARIANCE. BUILDING INSPECTION STAFF WILL REVIEW THE STANDARDS FOR A VARIANCE (BELOW) PRIOR TO YOUR FILLING OUT THE APPLICATION AND PAYING THE NON-REFUNDABLE FILING FEE.

TEST #1: UNNECESSARY HARDSHIP

The Wisconsin Supreme Court has ruled that unnecessary hardship only exists when the zoning ordinance denies ***all reasonable use*** of property. ***If there is an alternative plan that is within the bounds of the zoning ordinance, a variance is not warranted.***

The hardship experienced ***must not be self-imposed***; loss of profit, expense already incurred and additional expense incurred to comply with zoning ordinances ***are not*** unnecessary hardships.

TEST #2: UNIQUE PROPERTY LIMITATIONS

Unique physical characteristics of your property must prevent you from completing your proposed construction in compliance with the ordinance. The property must qualify for the variance, ***not your particular situation.***

Additionally, existing violations on other properties or improper variances previously granted are not grounds for a variance.

TEST #3: NO HARM TO PUBLIC INTEREST

The Board members will be taking into account the reason for the existence of the zoning ordinance in applying this test. Lack of opposition ***does not*** necessarily mean that the proposed construction would not harm the public interest.

The Board, in granting a variance, may impose conditions on the proposed construction to assure that the public's interests are protected. Board members may only grant the ***minimum relief*** necessary for the reasonable use of the property.

Your proposed construction must meet all three "tests" to qualify for a variance. Variances are meant to be an ***infrequent*** remedy where an ordinance imposes a unique and substantial burden. ***They are not intended as an accommodation for a property owner's convenience.*** A variance decision may be appealed within 30 days of the filing of the decision in the office of the board.

Please contact the staff at the City's Planning Department and/or Building Inspection Department if you have any further questions.

Request for variance in code at 120 Superior Avenue

Legal Description of property

All of Lot 4 and part of Lots 2 and 3, Block 2, Original Plat, City of Sheboygan, Sheboygan County, Wisconsin, described as follows:

Commencing at a point in the North Line of said Block 2, which point is 40 feet East of the Northwest corner of Lot 2 in said Block, running thence Southwesterly along a straight line to a point in the South line of said Block 2, which point is 25 feet East of the Southwest corner of Lot 3 in said Block, thence running West along the South line of said Block to the Southwest corner of Lot 4 in said Block, running thence North along the West line of Lot 4 to the Northwest corner of said Lot 4, running thence East along the North line of said Block to the place of beginning.

The owner/applicant seeks a variance in building code for a railing that encloses a small balcony outside a sun room on the second floor of a duplex at 120 Superior Avenue. The balcony is above the garage.

The railing I wish to install is the same style railing that had been in place since construction in the 50s until its removal two years ago.

At that time it was necessary to replace sliding glass doors that had deteriorated. The contractor was asked to paint and or repair the railing at the same time. He informed me it was beyond repair and should be discarded.

Without realizing the problem removal would cause, I agreed.

The architectural style of the building is mid-century modern and was designed by W.C. Weeks in the 1950s. There is standing in the yard along the east side of the driveway a vertical light fixture of the same design as the railing. It is now hidden by overgrown yews which in the coming spring will either be pruned or replaced. Then the light post will be visible.

The design of the lamp post and railing is unique and appropriate for the style of the architecture of the building. Some other design conforming to code would not be appropriate, something like wearing an outfit from one generation and accessories from another. They don't match.

I did attempt to create the same design with smaller open spaces, but the number of welding joints exceeded the blacksmith's willingness.

Approaching the building from the driveway (there's no other way), the railing above the garage doors is one of the first details of the building one sees.

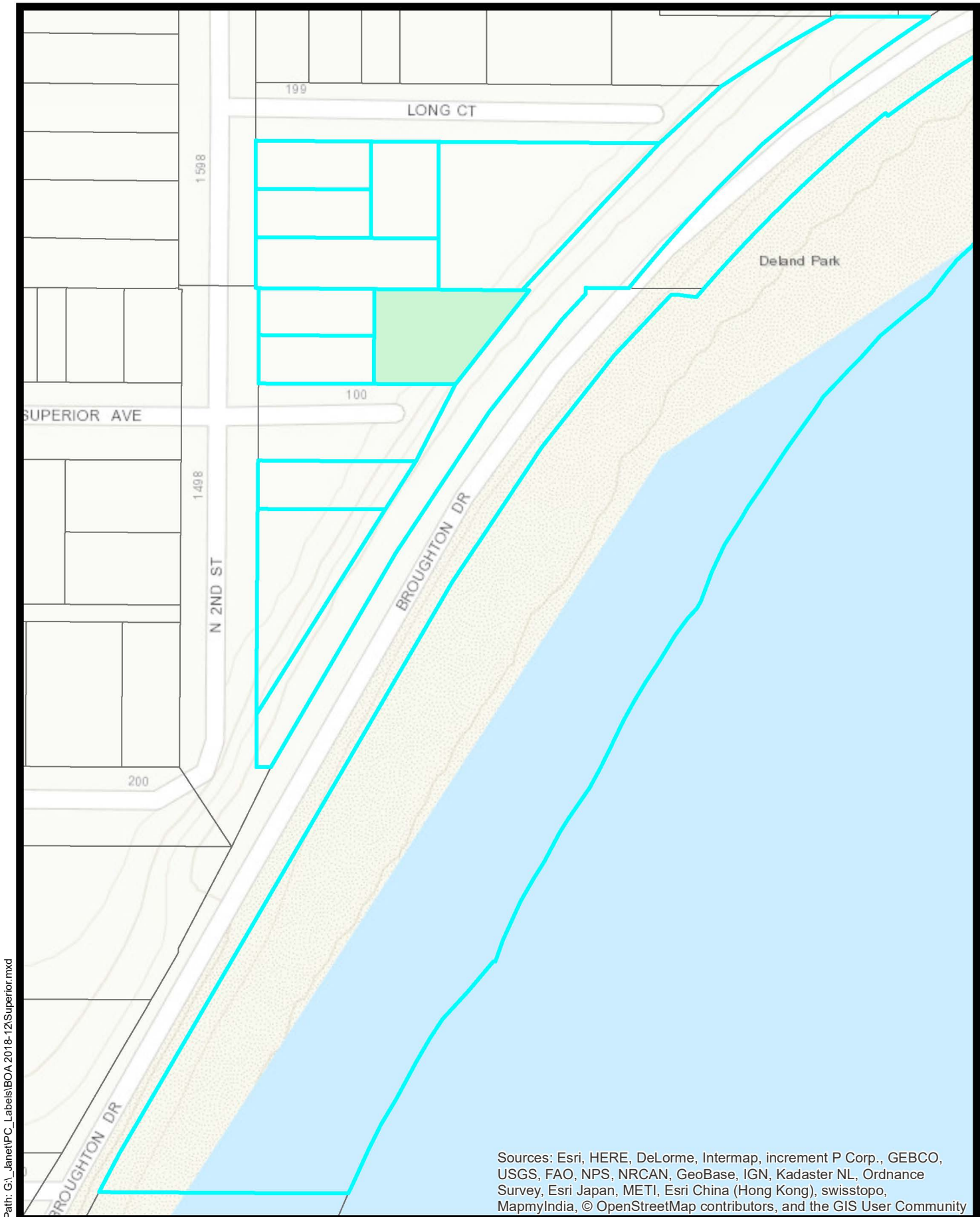
I simply would like to replace what was designed for the place and had been in existence for over 60 years.

I should have done it at the time it was removed.

I appreciate the committee's consideration of this request.

Eleanor and Henry Jung
1330 North Fifth Street
Sheboygan, WI 53081

(920) 451-1330
tippyjung@att.net



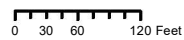
Path: G:\Janet\PC_Labels\BOA.2018-12\Superior.mxd

Date: 12/6/2018

Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



City of Sheboygan

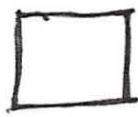




N.
2nd
STREET

PAUL and CHRIS HEMMER
1513 N. 2nd ST.

JEFF BUSER
N. 2nd ST.



JUNG
120 SUPERIOR AVE

SUPERIOR AVENUE

STAIRS
DEAD
END

SUPERIOR AVE

PAT GIBBS
1424 N. 2nd
ST.

204
HURON AVE

1429 N. 2nd ST.

DENNIS and JANE ARNOTT
1419 N. 2nd STREET

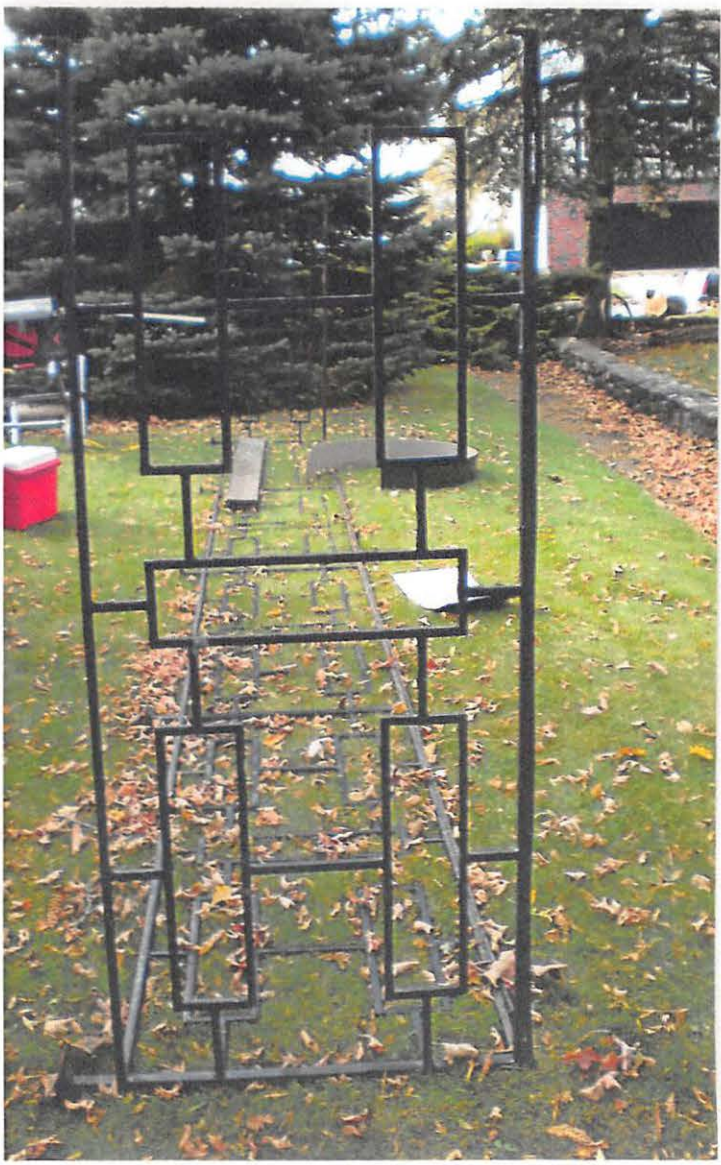
HURON AVENUE

THOMAS
TESTUOLDE
200 HURON AVE



South
side of
building
where
railing
would be
installed

← Original Railing →





Looking
south
across
Superior
from end
of driveway
at 120 Superior



north edge
of property

Northwest
corner of
lot





Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri-Japan, METI, Esri-China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

APPLYING FOR A VARIANCE

Variances to zoning ordinances are considered by the CITY OF SHEBOYGAN Zoning Board of Appeals monthly at a public hearing. In order to be considered at the next meeting, applications must be received in the Building Inspection Department Office *no later* than NOON on:

11-30-18
Application deadline date (last working day of the month)

12-19-18
Date: Board of Appeals Meeting

All applications must include:

1. Application forms, signed and dated, which are available at the Building Inspection Department Office.
2. A legal description of the property.
3. The non-refundable filing fee - \$250.00.
4. A site sketch, drawn to scale if possible, indicating the location of all existing structures and the proposed construction. Also indicate lot lines, size of lot, streets and other public ways, driveways, off-street parking, loading areas, and existing and proposed front, side and rear yards. Please consult with Building Inspection staff for more information.
5. Photographs of the property.

Note The applicant can present any additional information which is necessary to inform the Board of the facts.

FAILURE TO SUPPLY ADEQUATE AND / OR ACCURATE INFORMATION AS REQUESTED ABOVE CAN BE GROUNDS FOR DISMISSAL OF THE APPEAL REQUEST.

Applicants should be prepared to answer the following questions:

- * *What hardship is created by the application of the Zoning Ordinance to this property? Is reasonable use of the property denied by the zoning regulations? In other words, is there an alternative plan that would comply with the ordinance?*
- * *Is there a unique physical characteristic of the property which prevents development of the property in compliance with the Zoning Ordinance.*
- * *Would granting the variance harm the public interest in any way? For example, would public safety be compromised? (Note: Lack of neighborhood opposition does not necessarily mean that a variance would not harm the public interest.)*

A notice of the date and time of the hearing will be mailed to all property owners within 100 feet of your property. Notice of hearing will also be sent to the City of Sheboygan Planning Department. It is important that you discuss your proposal with the Building Inspection Department and Planning Department.

The property owner or a representative shall be present at the public hearing to present his or her request to the Board and to answer any questions the Board members may have. Should an appearance not be made, or should insufficient information be presented, the appeal will not be considered and may be either placed on the agenda for the next meeting or be denied. The appellant will be required to pay the additional expense that is incurred because of postponement of the hearing. Appellants are reminded that the filing fee for a variance request is non-refundable.

I have read the above and understand my responsibilities regarding my appeal to the Zoning Board of Appeals. I have also read and understand the "Three Tests" for a Variance included with this form.

Megan Huey
Signature

12/3/2018
Date

APPEAL FROM RULING OF THE BUILDING INSPECTOR
AND/OR ZONING ADMINISTRATOR

CASE NO. 183239
FILING DATE _____
RECEIPT NO. _____
ZONING DIST. NR

TO: THE ZONING BOARD OF APPEALS, CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WI

- 1). Appeal Location (address): 306 HURON AVE
- 2). Applicant: Megan and Greg Hurzog Telephone #: (262) 215-0775
Address: 306 HURON AVE SHEBOYGAN, WI 53081
- 3). Legal Property Description (Lot, Block, Subdivision, etc.) Parcel # 59281101010
- 4). Type of Building (Circle): Commercial - Industrial - Institutional - Residential - Apartment - Other (if other)
please list: _____
- 5). Request for (Circle): New Construction - Repairs - Alterations - Addition - Nonconforming Use - Other
(if other) please list: _____
- 6). If the request is for a nonconforming use:
Your intended use: _____
Date last occupied as a nonconforming use: _____
By Whom: _____ Previous use: _____
- 7). Applicants interest in property: Owners
- 8). Describe the requested variance and grounds for refusal of a permit.
We request a 6ft fence with greater than 50 percent opacity.
- 9). What unnecessary hardship or difficulty is caused by following the regulations or requirements of the ordinance?
See the attached "The Three Tests" For A Variance" and be prepared to argue how you pass the THREE TESTS
FOR A VARIANCE.:
See attached.

I HEREBY CERTIFY THAT THE ABOVE APPLICATION AND/OR APPEAL AND ALL ATTACHMENTS THERETO ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Date: 12/3/2018

Signature: Megan Hurzog
Mailing Address: 306 HURON AVE SHEBOYGAN, WI 53081

THE THREE "TESTS" FOR A VARIANCE

The CITY OF SHEBOYGAN adheres to a set of Zoning Ordinances to make certain that your proposed construction is consistent with neighboring developments, that a development does not infringe on the enjoyment of property belonging to neighboring owners, that it does not detract from surrounding buildings or lots and is not out of character with the neighborhood, and that a project meets necessary public health and safety standards. If your proposed construction cannot meet the requirements of the zoning code or sign code, a **VARIANCE** is needed.

To obtain a variance, you must establish that, due to some peculiarity of the property's size, shape, topography, etc., it would be a hardship or practical difficulty to meet zoning code requirements. ***These circumstances must not be self-imposed or self-created.*** In short, your proposed construction must meet and pass the three "tests" for a variance listed below.

IT IS RECOMMENDED THAT YOU MEET WITH THE STAFF IN THE CITY'S PLANNING DEPARTMENT AND BUILDING INSPECTION DEPARTMENT BEFORE SUBMITTING YOUR APPLICATION FOR A VARIANCE. BUILDING INSPECTION STAFF WILL REVIEW THE STANDARDS FOR A VARIANCE (BELOW) PRIOR TO YOUR FILLING OUT THE APPLICATION AND PAYING THE NON-REFUNDABLE FILING FEE.

TEST #1: UNNECESSARY HARDSHIP

The Wisconsin Supreme Court has ruled that unnecessary hardship only exists when the zoning ordinance denies ***all reasonable use*** of property. ***If there is an alternative plan that is within the bounds of the zoning ordinance, a variance is not warranted.***

The hardship experienced ***must not be self-imposed***; loss of profit, expense already incurred and additional expense incurred to comply with zoning ordinances ***are not*** unnecessary hardships.

TEST #2: UNIQUE PROPERTY LIMITATIONS

Unique physical characteristics of your property must prevent you from completing your proposed construction in compliance with the ordinance. The property must qualify for the variance, ***not your particular situation.***

Additionally, existing violations on other properties or improper variances previously granted are not grounds for a variance.

TEST #3: NO HARM TO PUBLIC INTEREST

The Board members will be taking into account the reason for the existence of the zoning ordinance in applying this test. Lack of opposition ***does not*** necessarily mean that the proposed construction would not harm the public interest.

The Board, in granting a variance, may impose conditions on the proposed construction to assure that the public's interests are protected. Board members may only grant the ***minimum relief*** necessary for the reasonable use of the property.

Your proposed construction must meet all three "tests" to qualify for a variance. Variances are meant to be an ***infrequent*** remedy where an ordinance imposes a unique and substantial burden. ***They are not intended as an accommodation for a property owner's convenience.*** A variance decision may be appealed within 30 days of the filing of the decision in the office of the board.

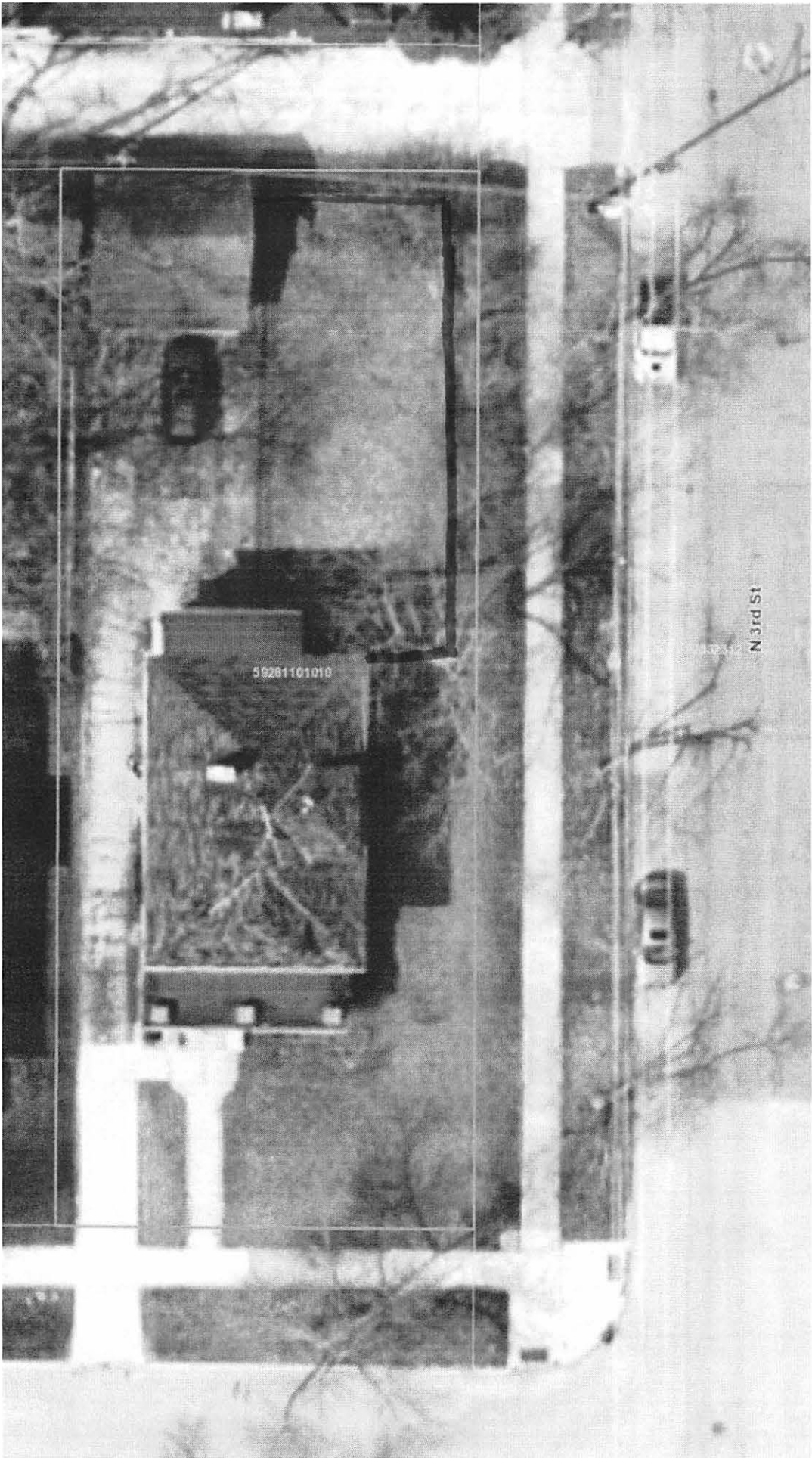
Please contact the staff at the City's Planning Department and/or Building Inspection Department if you have any further questions.

Containing our dogs in the backyard isn't feasible with 50 percent opacity. We have a small and a large dog that we are trying to contain in our yard. We need a 6 ft tall fence to keep our dogs in and others walking by out. We have had issues with dogs trying to climb our fence.

Our fence is placed on a hill that is already 4 feet tall and 11.5 feet away from the sidewalk. It is also 25.5 feet from the street. It is not impairing vision or encroaching on the sidewalk.

The fence does not block line of site due to the positioning of the fence.

This is a repair to a previous fence in the same position.

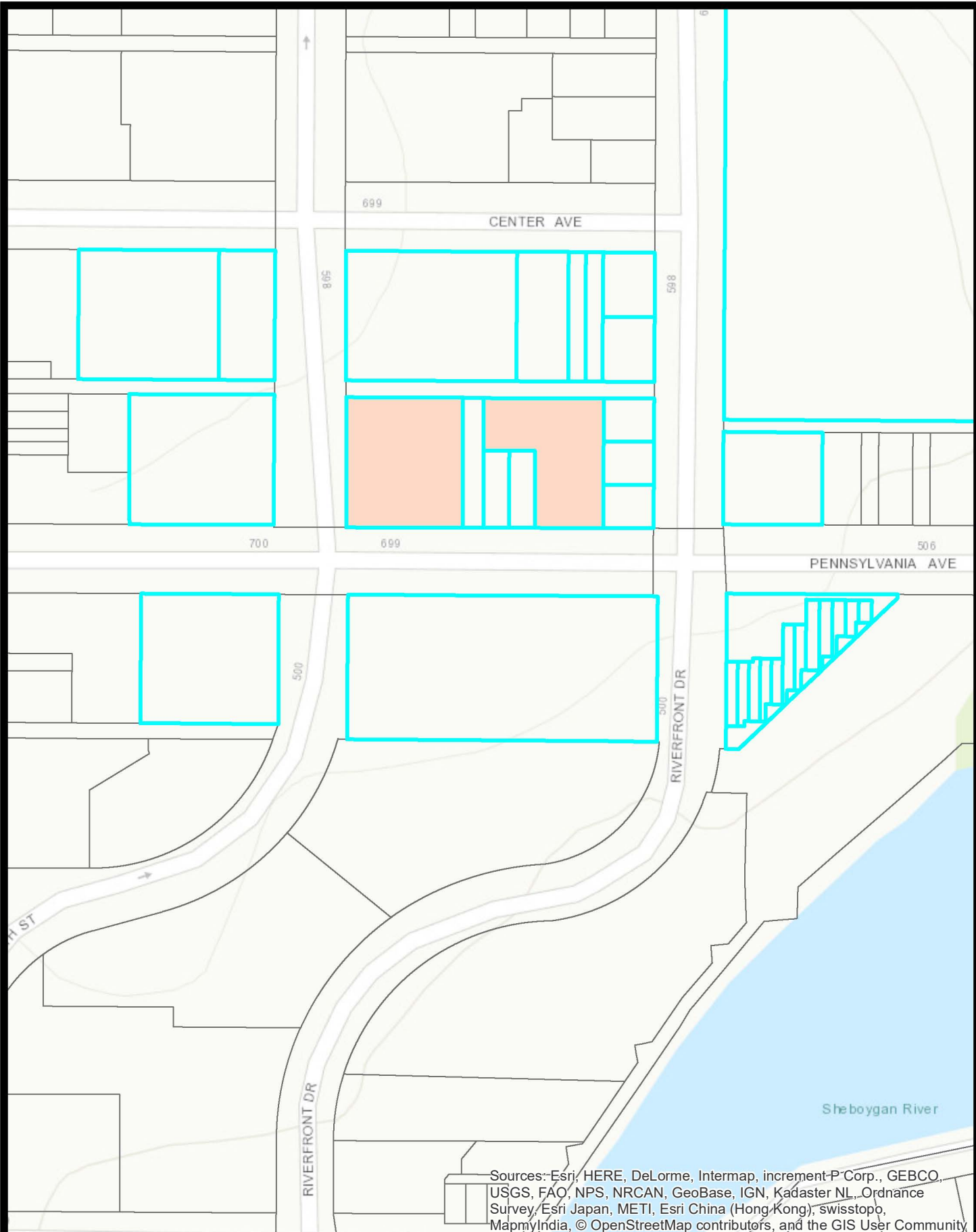


59261101010

N 3rd St



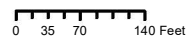
Path: G:\Janet\PC_Labels\BOA.2018-12\110750-110850_2.mxd



Sources: Esri, HERE, DeLorme, Intermap, increment-P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

Date: 12/7/2018

City of Sheboygan



APPLYING FOR A VARIANCE

Variances to zoning ordinances are considered by the CITY OF SHEBOYGAN Zoning Board of Appeals monthly at a public hearing. In order to be considered at the next meeting, applications must be received in the Building Inspection Department Office *no later* than NOON on:

Application deadline date (last working day of the month)

Date: Board of Appeals Meeting

All applications must include:

1. Application forms, signed and dated, which are available at the Building Inspection Department Office.
2. A legal description of the property.
3. The non-refundable filing fee - \$250.00.
4. A site sketch, drawn to scale if possible, indicating the location of all existing structures and the proposed construction. Also indicate lot lines, size of lot, streets and other public ways, driveways, off-street parking, loading areas, and existing and proposed front, side and rear yards. Please consult with Building Inspection staff for more information.
5. Photographs of the property.

Note The applicant can present any additional information which is necessary to inform the Board of the facts.

FAILURE TO SUPPLY ADEQUATE AND / OR ACCURATE INFORMATION AS REQUESTED ABOVE CAN BE GROUNDS FOR DISMISSAL OF THE APPEAL REQUEST.

Applicants should be prepared to answer the following questions:

- * *What hardship is created by the application of the Zoning Ordinance to this property? Is reasonable use of the property denied by the zoning regulations? In other words, is there an alternative plan that would comply with the ordinance?*
- * *Is there a unique physical characteristic of the property which prevents development of the property in compliance with the Zoning Ordinance.*
- * *Would granting the variance harm the public interest in any way? For example, would public safety be compromised? (Note: Lack of neighborhood opposition does not necessarily mean that a variance would not harm the public interest.)*

A notice of the date and time of the hearing will be mailed to all property owners within 100 feet of your property. Notice of hearing will also be sent to the City of Sheboygan Planning Department. It is important that you discuss your proposal with the Building Inspection Department and Planning Department.

The property owner or a representative shall be present at the public hearing to present his or her request to the Board and to answer any questions the Board members may have. Should an appearance not be made, or should insufficient information be presented, the appeal will not be considered and may be either placed on the agenda for the next meeting or be denied. The appellant will be required to pay the additional expense that is incurred because of postponement of the hearing. Appellants are reminded that the filing fee for a variance request is non-refundable.

I have read the above and understand my responsibilities regarding my appeal to the Zoning Board of Appeals. I have also read and understand the "Three Tests" for a Variance included with this form.

By Matthew J. May, Member
Signature

December 4, 2018
Date

APPEAL FROM RULING OF THE BUILDING INSPECTOR
AND/OR ZONING ADMINISTRATOR

CASE NO. _____
FILING DATE _____
RECEIPT NO. _____
ZONING DIST. _____

TO: THE ZONING BOARD OF APPEALS, CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WI

Northeast of 7th Street & Pennsylvania Ave

1). Appeal Location (address): *See letter for Tax Parcel Numbers*

2). Applicant: *Commodore Properties LLC* *Peter R Mayer, Member*
Address: *502 N. 6th Street Sheboygan* Telephone #: *(920) 980-8241*

3). Legal Property Description (Lot, Block, Subdivision, etc.)
Lot 6, 7, 8, 9, 10, 11 of Block 310, Original Plat

4). Type of Building (Circle): *Commercial* - Industrial - Institutional - Residential - *Apartment* - Other (if other)
please list: _____

5). Request for (Circle): *New Construction* - Repairs - Alterations - Addition - Nonconforming Use - Other
(if other) please list: _____

6). If the request is for a nonconforming use:
Your intended use: _____
Date last occupied as a nonconforming use: _____
By Whom: _____ Previous use: _____

7). Applicants interest in property: *Adjacent Property Owner*

8). Describe the requested variance and grounds for refusal of a permit *Appeal*
See attached letter *Setback violation*
Improper zoning

9). What unnecessary hardship or difficulty is caused by following the regulations or requirements of the ordinance?
See the attached "The Three Tests" For A Variance" and be prepared to argue how you pass the THREE TESTS
FOR A VARIANCE.:
N/A

I HEREBY CERTIFY THAT THE ABOVE APPLICATION AND/OR APPEAL AND ALL ATTACHMENTS THERETO ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Date: *December 4, 2018*

Signature: *By Peter R Mayer, member*
Mailing Address: *502 N 6th Street*
Sheboygan, WI 53081

THE THREE "TESTS" FOR A VARIANCE

The CITY OF SHEBOYGAN adheres to a set of Zoning Ordinances to make certain that your proposed construction is consistent with neighboring developments, that a development does not infringe on the enjoyment of property belonging to neighboring owners, that it does not detract from surrounding buildings or lots and is not out of character with the neighborhood, and that a project meets necessary public health and safety standards. If your proposed construction cannot meet the requirements of the zoning code or sign code, a **VARIANCE** is needed.

To obtain a variance, you must establish that, due to some peculiarity of the property's size, shape, topography, etc., it would be a hardship or practical difficulty to meet zoning code requirements. ***These circumstances must not be self-imposed or self-created.*** In short, your proposed construction must meet and pass the three "tests" for a variance listed below.

IT IS RECOMMENDED THAT YOU MEET WITH THE STAFF IN THE CITY'S PLANNING DEPARTMENT AND BUILDING INSPECTION DEPARTMENT BEFORE SUBMITTING YOUR APPLICATION FOR A VARIANCE. BUILDING INSPECTION STAFF WILL REVIEW THE STANDARDS FOR A VARIANCE (BELOW) PRIOR TO YOUR FILLING OUT THE APPLICATION AND PAYING THE NON-REFUNDABLE FILING FEE.

TEST #1: UNNECESSARY HARDSHIP

The Wisconsin Supreme Court has ruled that unnecessary hardship only exists when the zoning ordinance denies ***all reasonable use*** of property. ***If there is an alternative plan that is within the bounds of the zoning ordinance, a variance is not warranted.***

The hardship experienced ***must not be self-imposed***; loss of profit, expense already incurred and additional expense incurred to comply with zoning ordinances ***are not*** unnecessary hardships.

TEST #2: UNIQUE PROPERTY LIMITATIONS

Unique physical characteristics of your property must prevent you from completing your proposed construction in compliance with the ordinance. The **property** must qualify for the variance, **not your particular situation.**

Additionally, existing violations on other properties or improper variances previously granted are not grounds for a variance.

TEST #3: NO HARM TO PUBLIC INTEREST

The Board members will be taking into account the reason for the existence of the zoning ordinance in applying this test. Lack of opposition ***does not*** necessarily mean that the proposed construction would not harm the public interest.

The Board, in granting a variance, may impose conditions on the proposed construction to assure that the public's interests are protected. Board members may only grant the ***minimum relief*** necessary for the reasonable use of the property.

Your proposed construction must meet all three "tests" to qualify for a variance. Variances are meant to be an ***infrequent*** remedy where an ordinance imposes a unique and substantial burden. ***They are not intended as an accommodation for a property owner's convenience.*** A variance decision may be appealed within 30 days of the filing of the decision in the office of the board.

Please contact the staff at the City's Planning Department and/or Building Inspection Department if you have any further questions.



Commodore Properties, LLC
502 North 6th Street
Sheboygan, WI 53081

Peter R. Mayer, Member
Telephone: (920) 980-8251
peter@wisclawyer.com

December 4, 2018

VIA E-mail, U.S. Mail, and Hand Delivery

Mr. Steve Sokolowski
Manager of Planning & Zoning
City of Sheboygan
828 Center Avenue
Sheboygan, WI 53081

Re: Review of Zoning and Setback Violations for CCM-Sheboygan 7Penn, LLC Property;
Northeast of 7th Street and Pennsylvania Avenue Intersection in the City of Sheboygan;
Parcel Numbers 110750, 110810, 110820, 110830, 110840, and 110850 (the "Property");
Notice of Appeal to Zoning Board of Appeals

Dear Mr. Sokolowski:

It is my understanding that a City of Sheboygan building permit has been issued by the City of Sheboygan for the adjacent Property located on the south side of Block 310 of the Original Plat and owned by CCM-Sheboygan 7Penn, LLC ("CCM"), relating to the structure and that the permit relating to the above-ground improvements for the five story building (the "7Penn Building") on the Property awaits State review. Therefore, it is my understanding that the plans for the 7Penn Building and Property presented to and reviewed by the City of Sheboygan remain unchanged and it is now timely for me to object to the violation of setback requirements under the City of Sheboygan Zoning Ordinance. I am alleging and asserting that since the approved plans for the 7Penn Building and Property violate the setback and zoning requirements an error has occurred in both interpreting the City of Sheboygan Ordinances and in granting permits and approvals for the 7Penn Building.

Certain approvals, variances, and recommendations have been purportedly granted by the City of Sheboygan Planning Commission on October 23, 2018, the Architectural Review Board on October 29, 2018, and the Building Inspection office. (Note: although I am not aware of any variance approvals by the Zoning Board of Appeals, the variances requested by CCM were for (1) building height of 62 feet, (2) density of 66 units on 1.03 acres, (3) minimum lot area per unit, and (4) landscaping requirements.) No setback variance was applied for or considered relating to the distance of the 7Penn Building from my property and no such setback variance has been reviewed or addressed by the City of Sheboygan Planning Commission or the Zoning Board of Appeals. Legal counsel for CCM incorrectly stated during the City of Sheboygan Planning Commission meeting on October 23, 2018 that there is no setback in the Central Commercial District. You stated during the City of Sheboygan Planning Commission meeting on October 23, 2018 that you did not consider a porch to be a structure. At both the meetings of the City of Sheboygan Planning Commission on October 23, 2018 and the Architectural Review Board on October 29, 2018, I requested an increased setback from my property located at Lot 12, Block 310 of the Original Plat, beyond that shown on proposed plans for the 7Penn Building.

Section 15.034 of the City Ordinances defines "setback" as: "The shortest distance between a building's or structure's exterior from the nearest point on the referenced lot line." "Structure" is defined in Section 15.034 as: "Anything constructed or erected, the use of which requires a more or less permanent location on the ground, or attached to something having a permanent location on the ground, excepting public utility fixtures and

appurtenances.” It is not possible to conclude that a porch 50 feet in the air is somehow not an attached structure. Thus, the distance from the east lot line to the outer extent of the porches is the setback. The building height limit in the Central Commercial District is 35 feet, assuming that this is the proper zoning district (see below). The 7Penn Building height is 62 feet. Minimum setbacks are established in the Tables in Sections 15.402 and 15.403. Footnote 3 of Table 15.403 requires a one foot for one foot increase in setbacks for building heights exceeding 35 feet in the Central Commercial District. Because of the use of the words “with a conditional use permit **and** increased building setback” (emphasis added), the use of the conjunction “and” rather than the disjunctive “or” confirms that this increased building setback is not discretionary and can only be altered with a variance.

Neither the application nor the Planning Commission meeting on October 23, 2018 addressed a variance on setbacks. Furthermore, given the requirements for variances not being the result of self-created practical difficulty or unnecessary hardship, I assume a setback variance for a vacant site would be almost impossible to obtain. To the extent that you believe the Planning Commission implicitly granted a setback variance by approving the 7Penn Building, that approval did not meet the legal requirements of the City Zoning Ordinance with respect to proper notice, proper hearing, proper body to grant a variance, or satisfaction of the legally required and necessary standards and criteria to grant a variance.

According to CCM’s application, the 7Penn Building has 66 apartments. In Section 15.034, the definition of “apartment” requires that a development with more than 24 dwelling units may be considered as a part of a Planned Unit Development. The zoning for the subject parcel is Central Commercial, not Planned Unit Development. Therefore, as I stated at the Planning Commission meeting on October 23, 2018, the City Ordinances may require a different zoning classification for this development, specifically Planned Unit Development. In any case, Section 15.034 also requires that all apartment units shall be located a minimum of 30 feet from the boundary of the development. Thus, Section 15.034 also confirms that the 7Penn Building does not satisfy the setback requirements.

By this letter, I am requesting that you correct the erroneous interpretation of the City of Sheboygan Zoning Ordinance relating to the setback requirements for the 7Penn Building and that you immediately order the withdraw and rescission of the permits and approvals granted to CCM until the 7Penn Building is in compliance with the City of Sheboygan Zoning Ordinances. In the event that you are not willing to do so, this letter shall constitute Notice of Appeal to the Zoning Board of Appeals under Section 15.934(4) of the City of Sheboygan Zoning Ordinances. I have enclosed a check in the amount of \$250.00 payable to the City of Sheboygan as an appeal fee, since that is the amount noted on the City website.

Please let me know immediately if the fee is different than posted or if the City of Sheboygan has any prescribed forms for Notice of Appeal to the Zoning Board of Appeals. I look forward to your immediate attention to this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Peter R. Mayer", with a long horizontal flourish extending to the right.

Peter R. Mayer

PRM/s

pc. Clerk to Zoning Board of Appeals
Charles C. Adams, Esq., City Attorney (via e-mail)
Mr. Chad Pelishek, Director of Planning & Development (via e-mail)
Mayor Michael Vandersteen (via e-mail)
Mr. Darrell Hofland, City Administrator (via e-mail)
Mr. Pat Eirich (via e-mail)
David Gass, Esq. (via e-mail)

PRAIRIE ON THE LAKE LLC 35 E WACKER DR STE 3200 CHICAGO IL 60601	FIRST WIS NATL BANK 2800 E LAKE ST MINNEAPOLIS MN 55406	PRENDEVILLE, ANDREW K 3120 S BUSINESS DR BOX 156 SHEBOYGAN WI 53081
PLACES & SPACES 10555 N PT WSNTN RD STE 203 MEQUON WI 53092	ALJOCO 602 N 6TH ST SHEBOYGAN WI 53081	ALJOCO 602 N 6TH ST SHEBOYGANWI53081
FIRST WIS NATL BANK 2800 E LAKE ST MINNEAPOLISMN55406	SHEBOYGAN COUNTY 508 NEW YORK AVE SHEBOYGANWI53081	SHEBOYGAN COUNTY COURT HOUSE & LAW CENTER 615 N 6TH ST SHEBOYGANWI53081
HANNA, DEBORAH E 525 PENNSYLVANIA AVE UNIT 303 SHEBOYGANWI53081	MUNSON TRUST MUNSON, GORDON & FLORENCE 3770 PINEBROOK CIR APT 5 BRADENTONFL34209	ABLER, RONALD F ABLER, BARBARA B 525 PENNSYLVANIA AVE UNIT 301 SHEBOYGANWI53081
BARNES REVOCABLE TRUST 6-12-03 525 PENNSYLVANIA AVE UNIT 302 SHEBOYGANWI53081	SCHNEIDER, VALERIE L 525 PENNSYLVANIA AVE UNIT 202 SHEBOYGANWI53081	LEICK, JOHN B 525 PENNSYLVANIA AVE UNIT 203 SHEBOYGANWI53081
PAULY REVOCABLE TRUST 525 PENNSYLVANIA AVE UNIT 101 SHEBOYGANWI53081	PRAIRIE ON THE LAKE LLC 35 E WACKER DR STE 3200 CHICAGOIL60601	KOBER LIVING TRUST OF 1997 525 PENNSYLVANIA AVE UNIT 103 SHEBOYGANWI53081
ROENITZ, CHRISTINE M 525 PENNSYLVANIA AVE UNIT 104 SHEBOYGANWI53081	PETHAN, JEANNE M 525 PENNSYLVANIA AVE UNIT 201 SHEBOYGANWI53081	WALKER LIVING TRUST OF 2000 525 PENNSYLVANIA AVE UNIT 304 SHEBOYGANWI53081
HARBOR POINTE CONDOMINIUMS	RAHIL LLP 908 WASHINGTON ST MANITOWOCWI54220	SALVATION ARMY 10 W ALGONQUIN RD DES PLAINESIL60016
GANNETT SATELLITE INFO NETWORK INC 7950 JONES BRANCH DR MC LEANVA22102	CCM SHEBOYGAN 7PENN LLC 901 S 70 TH ST WEST ALLIS WI 53214	ABACUS ARCHITECTS INC 1135A MICHIGAN AVE SHEBOYGAN WI 53081

COMMODORE PROPERTIES LLC

1314 N 5TH ST

SHEBOYGAN WI 53081

PAZUR, DENISE M

514 N 6TH ST

SHEBOYGAN WI 53081

HKK PROPERTIES, LLC

PO BOX 485

RANDOM LAKE WI 53075

FIRST WIS NATL BANK

2800 E LAKE ST

MINNEAPOLIS MN 55406