

ZONING BOARD OF APPEALS AGENDA

**Tuesday, November 2, 2021
5:00PM**

- 1) Site Inspections at 5:00pm:
 - a. Bartlein – W6753 Manitowoc Road
- 2) Call to Order
- 3) Roll Call
- 4) Pledge of Allegiance
- 5) Approve Minutes
 - a. July 6, 2021
- 6) Public Participation (Non-Agenda Harrison Related Items)
Please be advised per State Statute Section 19.84(2), information will be received from the public; be further advised that there may be limited discussion on the information received; however, no action will be taken under public comments.
- 7) Convene Meeting and Enter Public Hearing– Approximately 5:30pm
 - b. Variance – Bartlein – W6753 Manitowoc Road
- 8) Close Public Hearing and Reconvene Regular Meeting
- 9) Items for Discussion and Possible Action
 - a. Variance – Bartlein – W6753 Manitowoc Road
- 10) Items for Discussion
 - a. None
- 11) Announcements / Correspondence / Meeting Attendance
- 12) Set Next Meeting Date
 - a. Tentatively December 7, 2021 at 5:00pm
- 13) Adjourn

Any person with hearing disabilities or requiring special accommodations to participate in the meeting should contact the Clerk's Office (920-989-1062) at least 24-hours prior to the meeting. This is a public meeting. As such, a quorum of the Village Board, Plan Commission, or Committees may be in attendance. However, the only business to be conducted is for the Zoning Board of Appeals.

Posted: October 14, 2021

Zoning Board of Appeals Minutes

July 6, 2021

- 1) Site Inspections: Viewed the following properties at 5:00pm:
 - a. Variance – Riley – W6495 Firelane 8.
- 2) Return to Village Hall: Returned to Village Hall from site inspections at 5:20pm.
- 3) Call to Order: Meeting was called to order at 5:25pm.
- 4) Roll Call: Present: Craig Majewski, John Jung, Tom Capper, Scott Chicoine, Dan Garber.
Staff present: Mark Mommaerts, AICP (Planner).
- 5) Pledge of Allegiance: Pledge was recited.
- 6) Approve Minutes: Motion (Capper/Garber) to approve the June 1, 2021 minutes. Motion carried unanimously.
- 7) Public participation: There was no public comment.
- 8) Convene Meeting and Enter Public Hearing: The Public Hearing was opened at 5:30pm. The following petitions were heard:
 - a. Variance – Riley – W6495 Firelane 8. Testimony was taken from Jim Sehloff, Davel Engineering, agent for the Petitioner, who spoke in favor of the variance request stating the petitioner is seeking a reduced setback from the Firelane 8 boat landing. It was stated that an access restriction agreement is proposed for this side. ZBA Jung asked about the drawing. Mr. Sehloff explained that a pool and pergola are proposed within the current setback distances. ZBA Garber asked if the property was surveyed. Mr. Sehloff stated that Martenson & Eisele completed a topographic survey and found monuments and that the wall is on the property approximately 1-foot. No testimony was given in opposition. Staff memo to the Zoning Board of Appeals dated July 6, 2021 was included.
- 9) Close Public Hearing and Reconvene Regular Meeting: The Public Hearing was closed and the regular meeting reconvened at 5:34pm.
- 10) Items for Discussion and Possible Action: The following items were discussed:
 - a. Variance – Riley – W6495 Firelane 8. The Zoning Board of Appeals found the following:
 1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this [Zoning] ordinance. The ZBA finds that the reduced setback will not negatively affect the public right-of-way because of the existing stone wall.

2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.
The ZBA finds that the proposed use of the property will not change.
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
The ZBA finds that the adjacent public right-of-way is utilized as a park rather than a typical street. The ZBA also finds that the existing stone wall is utilized as a side yard wall/fence rather than a wall/fence adjacent to a public right-of-way which typically limits wall/fence height to 4-feet tall and limits wall/fence to 50% open maximum.
4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.
The ZBA finds due to the increased setback area, the property owner is limited on how the property can be utilized, especially considering the width of the property is the same or less than many properties on Firelane 8.
5. The hardship is not shared generally by other land or buildings in the area.
The ZBA finds that the property is unique due to the being adjacent to the public right-of-way being utilized as a park rather than a typical street.
6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.
The ZBA finds that the variance is not self-created.

Motion (Jung/Garber) to conditionally approve the variance request from a 25-foot setback to a 7.5-foot setback with the following conditions:

- 1) The property owners enter into an access restriction agreement along the west property line.
- 2) The property owners agree to keep and maintain the existing stone wall.

Motion carried unanimously.

11) Items for Discussion: None.

12) Announcements/Correspondence/Meeting Attendance: There were no correspondence or announcements.

13) Set Next Meeting Date: Next meeting set for August 3, 2022 at 5:00pm.

14) Adjourn: Motion (Garber/Majewski) to adjourn at 5:41pm. Motion carried unanimously.

Dated: July 7, 2021

Prepared by: Mark Mommaerts, AICP, Planner

Craig Majewski, Secretary Date
Zoning Board of Appeals

ZONING BOARD OF APPEALS MEETING

VILLAGE OF HARRISON

From:

Mark J. Mommaerts, AICP, Planner

Meeting Date:

November 2, 2021

Title:

Variance - Bartlein

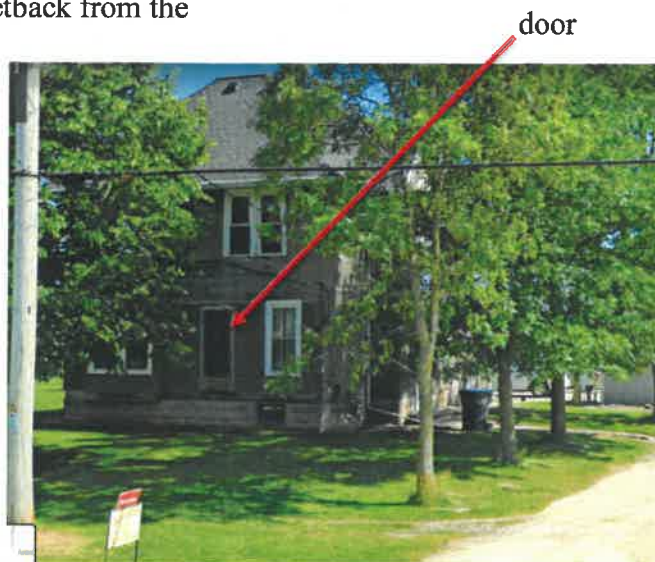
Issue:

Should the Zoning Board issue a variance from the front yard setback for a porch addition?

Background and Additional Information:

The applicant is requesting a variance from the front yard setback requirement in the zoning ordinance. The property is located at W6753 Manitowoc Road and is currently zoned General Agricultural [AG]. The property is a farmhouse with farm buildings that have been on the property for a century. The house currently sits approximately 84-86 feet from the centerline of Manitowoc Road, or 51-53 feet from the property line. Historically, there was a porch on the front of the house but has been removed for many years. The applicant states that the footings still exist.

The zoning ordinance requires a 50-foot setback from the front (street) property line. Currently, the house is setback 51-53 feet. The applicant wishes to add a porch back onto the house, as had been historically. The porch will be 8-feet in depth, which will extend into the required front yard setback 5-7 feet. This would make the front yard setback between 43-45 feet. The applicant is trying to restore the house to its historical form. There is a door on the front of the house that currently leads to a drop off outside of the house. The applicant states that the insurance company desires a porch on the property, essentially a safe means of egress from the structure.



This property is identified as Single-Family Residential in the Comprehensive Plan. If the property were to be sold for development and rezoned to RS-1 or RS-2 (typical single-family zoning districts), the front yard setback would be 25-feet and the houses could be closer to the road.

Zoning Ordinance:

117--80 (m)(1)(a) General Agricultural | AG

[32.16.060(m)(1)(a)]

M. Yard Requirements:**1. Principal Structure:**

1. Front yard: There shall be a minimum front yard of 50 feet, measured from the front lot line or right-of-way line, or from the right-of-way line of an officially mapped street, whichever is greater. There shall be a minimum front yard of 60 feet from a county road and 75 feet from a state or federal road, measured from the front lot line or right-of-way line, or from the right-of-way line of an officially mapped street, whichever is greater. Front yard reductions may be provided pursuant to HVC 32.12.040 paragraph C,6, front yard reduction.
2. Side yard: There shall be a minimum side yard of 25 feet on each side, measured from the side lot line.
3. Rear yard: There shall be a minimum rear yard of 50 feet, measured from the rear lot line.
4. Shore yard: There shall be a minimum shore yard of 75 feet, measured from the ordinary high water mark (OHWM) of any navigable waterway. Shore yard reductions may be provided pursuant to HVC 32.12.040 paragraph C,7, shore yard reduction.

Conclusions of Law/Requirements for a Variance [Section 117-360.]:

Variances shall only be granted when the Zoning Board finds that:

1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this [Zoning] ordinance.
Staff finds that the variance does not affect other lands or the public interest due to the minimal change in setback and the existing trees in front of the house.
2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.
Staff finds that additions within the AG zoning district are permissible.
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
Staff finds the structure pre-dates any zoning codes and historically had a porch attached. Staff also finds that the property is zoned AG in an area that is generally zoned RS-1. The applicant also states that the insurance company desires a porch/means of egress from the structure.
4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.
Staff finds that other homes in the area have porches and provide a safe means of egress from the structure. Currently, there is no safe means of egress from the existing door.
5. The hardship is not shared generally by other land or buildings in the area.
Staff finds that other properties were developed within the regulations of the zoning ordinance, however, this property was developed prior to zoning.
6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.
Staff finds that the variance is not self-created.

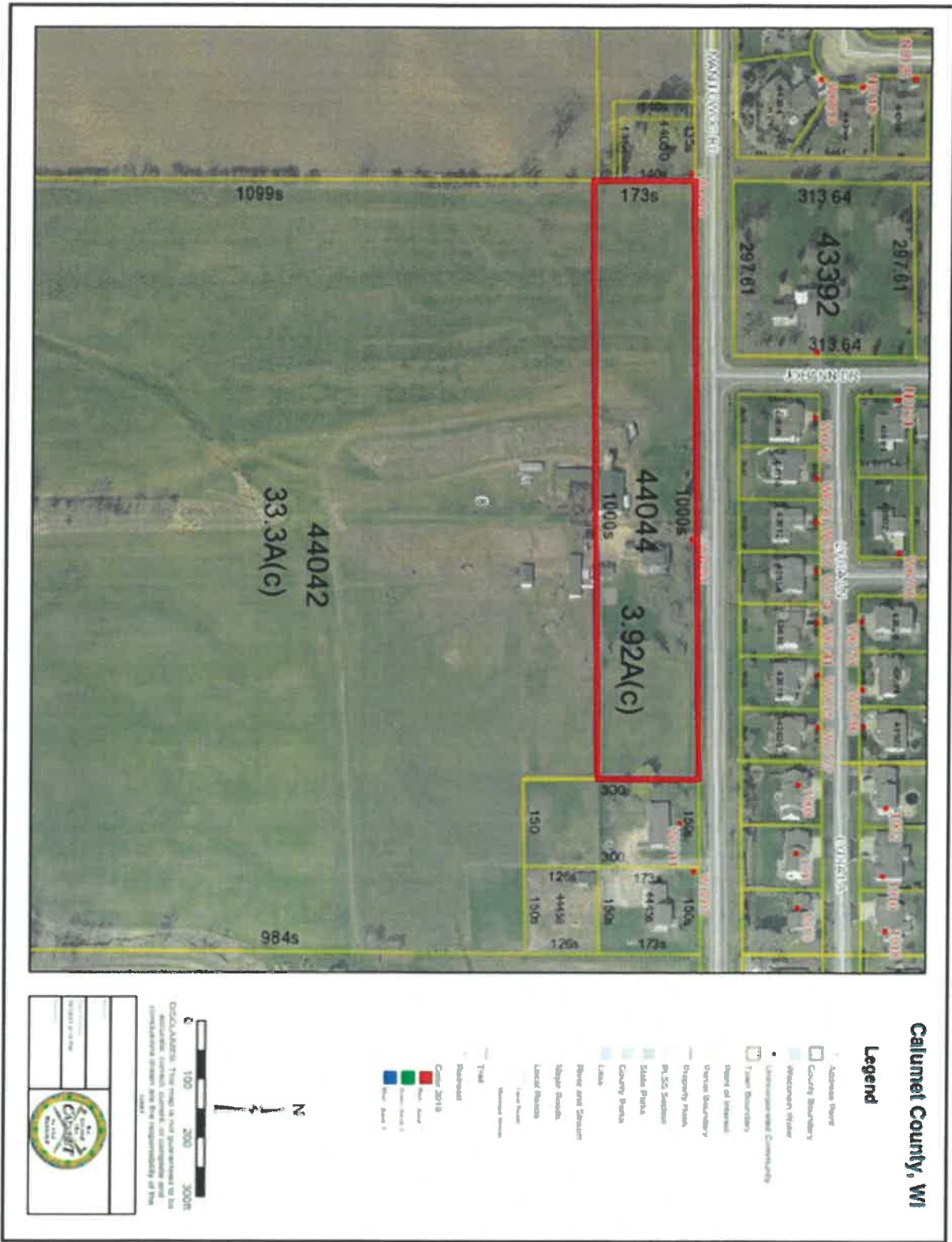
Recommended Action:

Based on the information provided, staff recommends approval of the Variance request to allow an 8-foot (depth) porch addition with the condition that all other building codes must be met.

Attachments:

- Aerial Map
- Application
- Project Plans

Aerial Map



Application

Village of Harrison
 W5298 Hwy 114
 Harrison, WI 54952
 Phone: 920-989-1062

21-019
**VARIANCE &
 ADMINISTRATIVE APPEAL
 APPLICATION**

Applicant Information			
Applicant Name (Indiv., Org. or Entity) <i>Darlene Bartlein</i>	Authorized Representative	Title <i>owner</i>	
Mailing Address <i>W 6753 Manitowoc Road</i>	City <i>Menasha</i>	State <i>WI</i>	Postal Code <i>54952</i>
E-mail Address <i>darlene.bartlein@new.pri.com</i>	Telephone (include area code) <i>920-637-4400</i>	Fax (include area code)	
Landowner Information (if different than Applicant)			
Name (Organization or Entity) <i>John/Darlene Bartlein</i>	Contact Person <i>Darlene</i>	Title <i>owners</i>	
Mailing Address <i>W 6753 Manitowoc Road</i>	City <i>Menasha</i>	State <i>WI</i>	Postal Code <i>54952</i>
E-mail Address <i>darlene.bartlein@new.pri.com</i>	Telephone (include area code) <i>920-637-4400</i>	Fax (include area code)	
Project or Site Location			
Site Name (Project):		Location ID(s): <i>44044</i>	
Site Address / Location: <i>W 6753 Manitowoc Rd</i>		Plat / CSM / Lot No.: —	
Quarter: <input type="checkbox"/> NW <input checked="" type="checkbox"/> NE <input type="checkbox"/> SW <input type="checkbox"/> SE	Section: <i>8</i>	Township: <i>20 N</i>	Range: <i>18 E</i>
Legal Description:			
Current Zoning: <i>AG</i>		Proposed Zoning: —	
Current Uses: <i>Farm Residence</i>		Proposed Uses: —	
Lot Dimensions: Front: Side: Rear: Side: Lot Area: <input type="checkbox"/> acres or <input type="checkbox"/> square feet			
Variance or Administrative Appeal Petition (see reverse side also)			
List which code section(s) requesting variance from or decision appealing:	Describe the Reason(s) for the Request (attach separate document if needed):		
<i>117-80 (M1A)</i>	<i>want to exceed frontage setback</i>		
<i>32.16.060 (M)(1)(A)</i>			
Fees			
<input checked="" type="checkbox"/> \$350.00			
Certification & Permission			
<p>Certification: I hereby certify that I am the landowner of the property which is the subject of this Application. I certify that the information contained in this form and attachments is true and accurate. I understand that failure to comply with any or all of the provisions of the ordinances and/or permit may result in notices, fines / forfeitures, stop work orders, permit revocation and cease & desist orders.</p> <p>Permission: As landowner of the property, I hereby give the permit authority permission to enter and inspect the property to evaluate this application, to determine compliance with the ordinances and to perform corrective actions after issuing proper notice to the landowner.</p>			
Applicant Signature		Date Signed	
Landowner Signature (required) <i>Darlene Bartlein</i>		Date Signed <i>9-14-21</i>	

Page 1 of 2

LEAVE BLANK - FOR MUNICIPAL USE ONLY			
Application Withdrawal Signature (required):	Date Signed:	Reason:	
Date Complete Application Received: <i>9-20-2021</i>	Fee Received \$ <i>350⁰⁰</i>	Receipt No: <i>13429</i>	Date Paid: <i>9-14-21</i>
		Taken By: <i>WJM</i>	

Required Information The following items are required attachments. An application will not be considered complete until all attachments are filed. (Please attach additional sheets if more room is needed.)

Site Plan. A detailed drawing, drawn to scale, indicating lot lines, roads, driveways, buildings/structures, setbacks and any other pertinent information shall be submitted.

Project Plans. A detailed drawing, drawn to scale, indicating all floor plans, elevations and any other pertinent information shall be submitted.

Photos (Optional). Photographs of the site, building or project may be submitted as part of the application.

Written Statements. Statements responding to the following criteria shall be submitted.

1. **Unique Property Limitations.** Unique physical limitations of the property (i.e. steep slopes, wetlands, etc.) that prevent compliance with ordinance requirements can be considered for a grant of a variance. The circumstances of an applicant (i.e. 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 an ordinance amendment request.

Unique features of this property which prevent compliance with the terms of the ordinance include:

- Farm in residential area - speed limit 45
- There was a porch on house - still have the footings in the ground
- Trying to restore the house.

2. **No Harm to Public Interests.** A variance may not be granted which results in harm to public interests. In applying this test, the Zoning Board of Appeals must consider the impact of the proposal and the cumulative impacts of similar projects on the interest of the neighbors, the entire community and the general public. These interests are listed in the Purpose and Intent section of the ordinance.

A variance will not be contrary to the public interests because:

My house will not affect anyone else. We have about 78 acres in surrounding residential areas.

3. **Unnecessary Hardship.** An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (i.e. excavating a pond on a cant 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 (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome. The Zoning Board of Adjustment must consider the purpose and intent of the zoning restriction, the zoning restrictions 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.

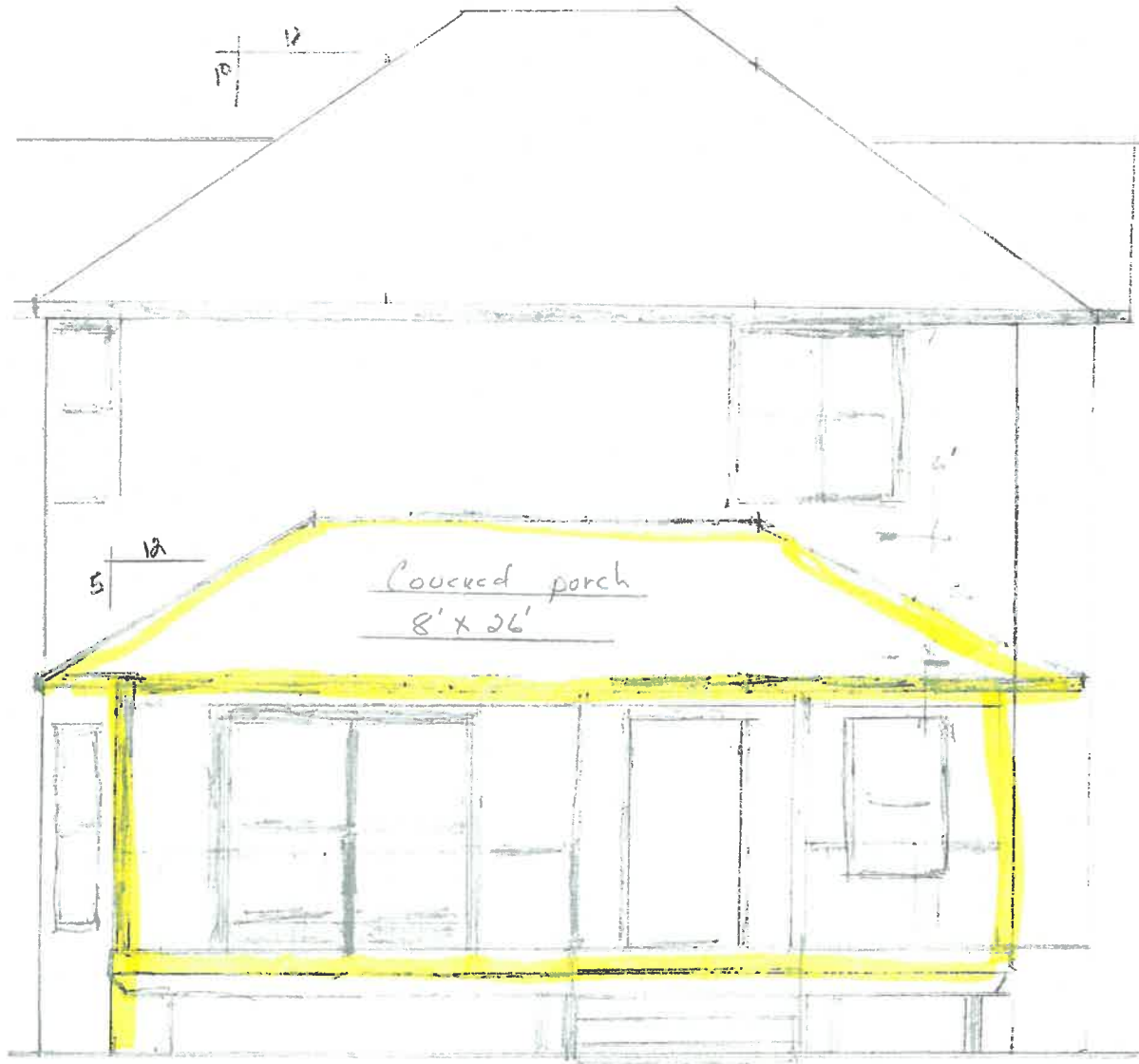
The unnecessary hardship is, and is present because:

Insurance company wants a porch on house

Basis for Approval: Variances shall only be granted when the Zoning Board finds:

1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this ordinance.
2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.
5. The hardship is not shared generally by other land or buildings in the area.
6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.

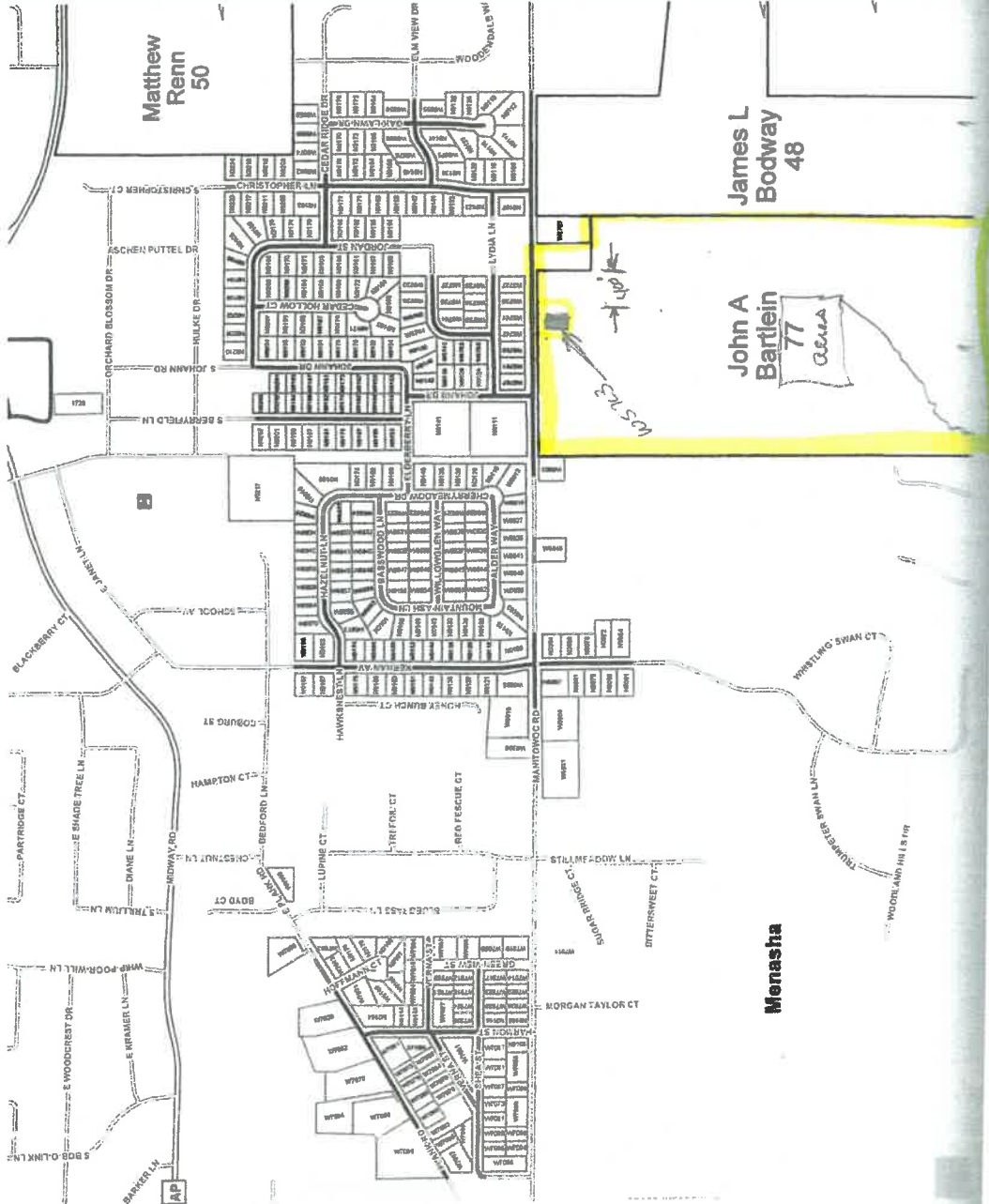
Project Plans



John Darlene Bartoni
-W5763 Manitowoc Rd
Menasha, WI 54952

Inset N Town of Harrison

Calumet County
Land Information Office



W5763 Manitowac Rd
John Danlene Bantle
Ken Mader 920-585-9670
on 80 acres

