



**Village of Weston, Wisconsin**

**Meeting of the ZONING BOARD OF APPEALS**

**During the 22<sup>nd</sup> legislative session of the elected Board  
of Trustees (2018 – 2019)**

**Monday, May 23, 2018  
@ 5:00 P.M.**

**Packet Prepared By:  
Jennifer Higgins, Director of Planning and Development**



**Village of Weston, Wisconsin  
MEETING NOTICE**

- Meeting of: **ZONING BOARD OF APPEALS**
- PC Members: **Montague {c}, Lawrence {vc}, Stenstrom, Crump, Langkamp, Hemauer {alt 1}, David {alt 2}**
- Date/Time: **Wednesday, May 23, 2018, @ 5:00 P.M.**
- Location: **Weston Municipal Center (5500 Schofield Ave) – Board Room**
- Agenda: **The agenda packet will be sent out at least 3 days prior to the meeting.**
- Attendance: **Zoning Board of Appeals Members, and Department Directors, please indicate if you will, or will not, be attending so we may determine in advance if there will be a quorum.**
- Questions: **Jennifer Higgins, Director of Planning & Development  
(715) 359-6114  
[jhiggins@westonwi.gov](mailto:jhiggins@westonwi.gov)**

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**This notice was posted at the Municipal Center and was e-mailed to local media outlets (Print, TV, and Radio) on 05/02/2018 @ 9 a.m.**

A quorum of members from other Village governmental bodies (boards, commissions, and committees) may attend the above-noticed meeting in order to gather information. No actions to be taken by any other board, commission, or committee of the Village, aside from the Zoning Board of Appeals. Should a quorum of other government bodies be present, this would constitute a meeting pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis.2d 553,494 N.W.2d 408 (1993).

Wisconsin State Statutes require all agendas for Committee, Commission, or Board meetings be posted in final form, 24 hours prior to the meeting. Any posted agenda is subject to change up until 24 hours prior to the date and time of the meeting.

Any person who has a qualifying disability as defined by the Americans with Disabilities Act requires that meeting or material to be in accessible location or format must contact the Weston Municipal Center, by 12 noon, the Friday prior to the meeting, so any necessary arrangements can be made to accommodate each request.



**VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN**  
**OFFICIAL MEETING AGENDA OF THE**  
**ZONING BOARD OF APPEALS.**

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TO CHAIRMAN BRENT MONTAGUE AND SIX (6) APPOINTED MEMBERS OF THE ZONING BOARD OF APPEALS: The following items were listed on the agenda in the Village Clerk's Office, in accordance with Chapter 94 of the Village's Municipal Code and will be ready for your consideration at the next special meeting of the Zoning Board of Appeals which has been scheduled for **Wednesday, May 23, 2018, at 5:00 p.m.**, in the Board Room, at the Weston Municipal Center, 5500 Schofield Avenue, Weston.

A quorum of members from other Village governmental bodies (boards, commissions, and committees) may/might attend the above-noticed meeting to gather information. Should a quorum of other government bodies be present, this would constitute a meeting pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis.2d 553,494 N.W.2d 408 (1993). No official actions other than those of the Zoning Board of Appeals shall take place.

Wisconsin State Statutes require all agendas for Committee, Commission, or Board meetings be posted in final form, 24 hours prior to the meeting. Any posted agenda is subject to change up until 24 hours prior to the date and time of the meeting.

**AGENDA ITEMS**

1. Meeting called to order by Zoning Board of Appeals Chair Brent Montague.
2. Roll Call of Zoning Board of Appeals by Clerk Parker
  - a. Brent Montague {C}
  - b. Dennis Lawrence {VC}
  - c. Michael Stenstrom
  - d. Richard Crump
  - e. Jim Langkamp
  - f. Nick Hemauer {ALT 1}
  - g. Paul David {ALT 2}
3. Welcome, Introductions and Acknowledgement of guests.
4. Opportunity for citizens to be heard.
5. [Approval of minutes from August 29, 2017 Meeting.](#)
6. [Review ZBA Roles and Responsibilities.](#)
  - a. [Chapter 94.16.17 Zoning Board of Appeals](#)
  - b. [Zoning Board Handbook, 2<sup>nd</sup> Edition, 2006](#) (weblink)
7. [PUBLIC HEARING - VARI-4-18-1686](#) Petitioner Michael Erdmann, Erdmann Holdings, LLC, 7778 Bay Ln, Fremont, WI 54940; Subject Property: 8101 Schofield Avenue (Trailside Bar & Grill). The petitioner has requested a hearing before the Board of Appeals requesting variances to Sec. 94.5.02 to allow parking lot reconstruction within the minimum required Front Hard Surface and Interior Side



**VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN**  
**OFFICIAL MEETING AGENDA OF THE**  
**ZONING BOARD OF APPEALS**

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Hard Surface setbacks. The subject property is zoned B-3 General Business. PIN 192 2808 231 0987 (0.91 acres).

- a. [Open Public Hearing](#).
- b. Presentation from Applicant, Michael Erdmann, on VARI-4-18-1686 application.
- c. Public Hearing/Public Comment Period.
- d. Written Testimony.
- e. Close Public Hearing.
- f. Discussion by Zoning Board of Appeals.
- g. Staff Recommendation.
- h. [Finding of Fact on VARI-4-18-1686](#)
- i. Action by Zoning Board of Appeals on VARI-4-18-1686.

Roll Call Vote:

- i. MONTAGUE {C}
- ii. LAWRENCE {VC}
- iii. STENSTROM
- iv. CRUMP
- v. LANGKAMP
- vi. HEMAUER {ALT 1}
- vii. DAVID {ALT 2}

**8. Remarks from Zoning Board of Appeals Members**

**9. Remarks from Staff**

**10. Adjourn**

**Village of Weston, Wisconsin  
OFFICIAL PROCEEDINGS OF THE  
ZONING BOARD OF APPEALS**

held on Tuesday, August 29, 2017, at 4:30 p.m., in the Board Room, at the Municipal Center

**OPENING OF SESSION.**

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**Roll call of the Zoning Board of Appeals by Chairman Montague, at 4:34 p.m.**

Roll call indicated 5 Zoning Board of Appeals members present.

<u>Member</u>	<u>Present</u>
Crump, Richard	YES
Falkowski, Greg	NO
Hemauer, Nick	YES
Langkamp, Jim	YES
Montague, Brent	YES
Stenstrom, Mike (Alt)	YES
Vacant (Alt)	NO

Village Staff in attendance: Higgins, Tatro, and Parker. There were 3 audience members present.

*{Clerk's note: Montague arrived late during the public hearing. Langkamp was asked to Chair until his arrival}*

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**APPROVAL OF PREVIOUS ZBA MEETING MINUTES.**

**1. Approve previous meeting(s) minutes from the ZBA, April 15, 2015, meeting.**

*Motion by Stenstrom, second by Hemauer, to approve previous meeting(s) minutes from the ZBA, April 15, 2015.*

Yes Vote: 4      No Votes: 0      Abstain: 0      Not Voting: 3      Result: PASS

<u>Member</u>	<u>Present</u>
Crump, Richard	YES
Falkowski, Greg	---
Hemauer, Nick	YES
Langkamp, Jim	YES
Montague, Brent	---
Stenstrom, Mike (Alt)	YES
Vacant (Alt)	---

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**ZONING BOARD OF APPEALS BUSINESS.**

**2. VARI-7-17-1660 Joseph Jordan, Sedek Farm, LLC, 4102 Camp Phillips Road, Weston, requesting a variance to permit a street yard fence at a height that is greater than that allowed within the RM (Rural Mix) Zoning District.**

**a. Open Public Hearing.**

Langkamp opened the hearing at 4:35 p.m.

**b. Presentation from Applicant, Joseph Jordan, on VARI-7-17-1660 Application.**

Joseph Jordan, 4102 Camp Phillips Road, was present to explain his request. He explained the history of this project and where they are now. He explained once they started their hobby farm, and what their insurance company was asking of them, as far as fencing-in their ponds, which he ultimately chose to fence in the entire property. He explained how along the north side, by the Disc Golf Course, how they put up a tall deer fence to help prevent frisbees from flying into their property. They have their horse pasture fenced in along the front, but their insurance company is requesting they install an additional security fence, 6-foot high, to prevent horses from getting out onto the busy roadway, or the liability from people trying to reach in to pet the horses. Jordan stated how he would like the fence to be aesthetically pleasing, which is when he chose the wrought iron fence that he would like installed along the entire east side of their property. His other options would be a deer fence or

barbed fence, which he did not want. The problem was that the Village zoning ordinances only allows a maximum height of 4 feet for a fence along the street side.

Higgins stated agricultural fences do not need a permit, but still have to follow the regulations. Higgins stated a public safety issue. Jordan stated the wrought iron fence will not disallow public safety from looking in.

Stenstrom questioned the setbacks are to code. The hardship is animals running out, or people getting in. Stenstrom confirmed the insurance company feels this is a hardship, and will not insure Jordan without a 6-foot fence.

Katrina Clark stated the issue is with so much traffic, they do have a perimeter fence. She said a lot of deer kill in that area, as not good visibility for the large amount of traffic.

Jordan feels this would be the best in the public's interest. He gave an example of a deadly situation from years ago where horses got out on to a busy road.

**c. Public Hearing/Public Comment Period.**

**d. Written Testimony.**

Higgins commented Turner submitted a letter in support.

**e. Close Public Hearing.**

Montague closed the hearing at 5:00 p.m. Langkamp seconded to close.

**f. Discussion by Zoning Board of Appeals on VARI-7-17-1660.**

Higgins explained the process and the Findings of Fact to follow.

**g. Finding of Fact on CARI-7-17-1660.**

Langkamp agrees a 4-foot high fence may not keep the animals in. He likes that Jordan is putting in a decorative fence, more eye appealing, versus a 4-strand fence. This enhances the community.

Higgins explained how staff chose to bring this through variance, versus a text amendment to the code (which affects everyone). She commented on the fact the insurance company will not insure him without the fence, she felt this request is okay through ZBA.

Stenstrom stated the physical limitation is the close proximity to the high traffic area, and the fact that he is granted the right to have farm animals. Stenstrom feels this will enhance the public's interest, as it will protect people from running into livestock, and it will look good. The unnecessary hardship is present, as if Jordan does not do this, he will not be able to enjoy the use of the property as granted in the zoning code, because he will not be able to get a farm policy and insure those animals.

Crump agrees, and commented on how the walking path gets a lot of use too.

**h. Action on VARI-7-17-1660.**

*Motion by Stenstrom, second by Hemaaur, to approve VARI-7-17-1660, per staff recommendation.*

Yes Vote: 5      No Votes: 0      Abstain: 0      Not Voting: 2      Result: PASS

<u>Member</u>	<u>Present</u>
Crump, Richard	YES
Falkowski, Greg	NO
Hemaaur, Nick	YES
Langkamp, Jim	YES
Montague, Brent	YES
Stenstrom, Mike (Alt)	YES
Vacant (Alt)	NO

**REMARKS FROM ZONING BOARD OF APPEALS.**

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No remarks.

**ADJOURN**

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**Motion by Stenstrom second by Langkamp, to adjourn at 5:11 p.m.**

Brent Montague, Chairman

Jennifer Higgins, Director of Planning & Development

Valerie Parker, Recording Secretary

**Village of Weston, Wisconsin  
SPECIAL MEETING OF THE  
ZONING BOARD OF APPEALS**

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**May 23, 2018**

**MEETING PACKET COVER  
SHEET AGENDA ITEM – 6a.**



- (2) **Extraterritorial Zoning Committee Duties.** Within the ETZ Area, the Extraterritorial Zoning Committee shall have the same duties under this Chapter as the Village Plan Commission has within the Village limits.

**Section 94.16.17: Zoning Board of Appeals**

- (1) **Membership.** The Zoning Board of Appeals shall be appointed by the Village Board.
- (2) **Meetings and Rules.** All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board or its staff may determine. All hearings conducted by the said Board shall be open to the public, except as otherwise required by law. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The Zoning Board of Appeals may adopt its own rules of procedure not in conflict with this Municipal Code or with the applicable Wisconsin Statutes.
- (3) **Offices.** The Village Board shall provide suitable offices for the Zoning Board of Appeals for holding of hearings and the presentation of records, documents, and accounts.
- (4) **Appropriations.** The Village Board shall appropriate funds to carry out the duties of the Zoning Board of Appeals. The Zoning Board of Appeals shall have the authority to expend, under regular procedure, all sums appropriated to it for the purpose and activities authorized herein.
- (5) **Jurisdiction and Authority.** The Zoning Board of Appeals shall have the jurisdiction and authority as specified in Wisconsin Statutes, and shall have the following powers:
- (a) Hear and decide appeals where it is alleged there is error in any interpretation pertaining to the order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer under this Chapter.
- (b) Hear and grant requests for variances to this Chapter under Section 94.16.11.

In exercising the above mentioned powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.

**Section 94.16.18: Fees**

- (1) **Payment of Fees for Procedures.** The fees for the procedures and permits established by this Chapter are established per a fee schedule approved by the Village Board, as amended from time to time, or under other related sections of the Municipal Code.
- (2) **Fees for Procedures Requested by the Village.** There shall be no fee in the case of applications filed in the public interest by the Village Board, Plan Commission, Extraterritorial Zoning Committee, or other agency or official of the Village.
- (3) **Payment of Fees.** Fees shall be payable at the time applications are filed with the appropriate officer of the Village (per the requirements of this Chapter) and are not refundable.
- (4) **Reimbursable Costs.** The Zoning Administrator, Village Engineer, Public Works Director, Village Attorney, Village Administrator, Building Inspector, and other Village staff and consultants may expend time in the investigation and processing of procedures regulated by this Chapter. The Village may also retain the services of other professional consultants including but not limited to landscape architects, planners, engineers, architects, environmental specialists, and recreation specialists in the administration, investigation, and processing of such matters. Any person, firm, or corporation requesting action by the

**VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN**  
5500 SCHOFIELD AVENUE, WESTON, WI 54476  
**REQUEST FOR CONSIDERATION**

**ZONING BOARD OF APPEALS, 5/23/2018**

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**File No.**                    VARI-4-18-1686

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**From:**                    Jennifer Higgins, Administrator

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**Question:**                Should the Zoning Board of Appeals approve the petition granting a reduction of the front hard surface setback by 13 feet and a reduction of the interior side yard hard surface setback by 10 feet?

**Background**

Mike Erdman, owner of Mike's Trailside, purchased the building at 8101 in the spring of 2014 to run a bar and grill on site. At the time of purchase, the site had a gravel parking lot, which was legally non-conforming. Prior to the purchase, in 1998, the County acquired an additional 12 feet of right-of-way from the property in question, reducing the setback of the principal structure to 13.56 feet.

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**Public Review:**        No Prior Official Review.

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**Recommendation:**    Staff is in favor of granting a variance for 13 feet for the front setback based on the taking of right-of-way by the County in the late 90's. Due to the concerns of storm water and green space, along with the lack of unique property circumstances and the creation of a self-induced hardship, the petition for the reduction of the setback on the east interior lot line to 0 should be denied. Furthermore, it should be required that the gravel is removed, and landscape and turf be installed upon construction of the parking lot.

**Official Action**

- 1) Grant the petition as presented by the applicant: A reduction of the front yard hard surface setback by 13 feet and a reduction of the interior side yard hard surface setback by 10 feet.
- 2) Grant-in-part the petition by the applicant: A reduction of the front yard hard surface setback by 13 feet.
- 3) Grant-in-part the petition by the applicant: A reduction of the front yard hard surface setback by 13 feet with the condition of the 10-foot portion adjacent to the east lot line be restored to green space/landscape with the installation of the parking lot.
- 4) Grant-in-part the petition by the applicant: A reduction of the interior side yard hard surface setback by 10 feet.
- 5) Deny the petition by the applicant due a self-induced hardship or harm to the public interest.

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Are there additional reference documents which have been attached to this report?

VILLAGE OF WESTON  
NOTICE OF PUBLIC HEARINGS



NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Village of Weston, WI, shall hold a public hearing at 5:00 p.m., on Wednesday, May 23, 2018, in the Board Room at the Weston Municipal Center, 5500 Schofield Avenue, Weston, WI 54476, to receive public comments on the following:

Petitioner Michael Erdmann, Erdmann Holdings, LLC, 7778 Bay Ln, Fremont, WI 54940; Subject Property: 8101 Schofield Avenue (Trailside Bar & Grill). The petitioner has requested a hearing before the Board of Appeals requesting variances to Sec. 94.5.02 to allow parking lot reconstruction within the minimum required *Front Hard Surface* and *Interior Side Hard Surface* setbacks. The subject property is zoned B-3 General Business. PIN 192 2808 231 0987 (0.91 acres) (VARI-4-18-1686)

All interested parties are invited to attend said hearing and be heard. After the public hearing, the Zoning Board of Appeals will consider the variance application. The application is available for viewing at the Village Municipal Center, 5500 Schofield Avenue, Weston, WI and at [www.westonwi.gov](http://www.westonwi.gov). Any person who has a qualifying disability, as defined by the Americans With Disabilities Act, who requires the meeting or materials at the meeting to be in an accessible location or format must contact the Village Clerk at (715) 359-6114, 5500 Schofield Avenue, Weston, Wisconsin, at least 24 hours prior to the commencement of the meeting so any necessary arrangements can be made to accommodate each request.

Dated this 4<sup>th</sup> day of May 2018

Valerie Parker  
Zoning Board of Appeals Secretary

Published as a legal ad in the Wausau Daily Herald on Wednesday, May 9, 2018, and Wednesday, May 16, 2018.

# Village of Weston Marathon County, WI



## OFFICIAL ZONING MAP



Map Date: 5/10/2018  
Adoption Date: 4/XX/2018



### LEGEND

8101 Schofield Avenue

### MUNICIPAL FEATURES

Village of Weston Incorporated Boundary

Right-of-Way

Wetland Presence

### ZONING DISTRICTS

PR Parks and Recreation

SF-L Single Family Residential-Large Lot

SF-S Single Family Residential-Small Lot

2F Two Family Residential

INT Institutional

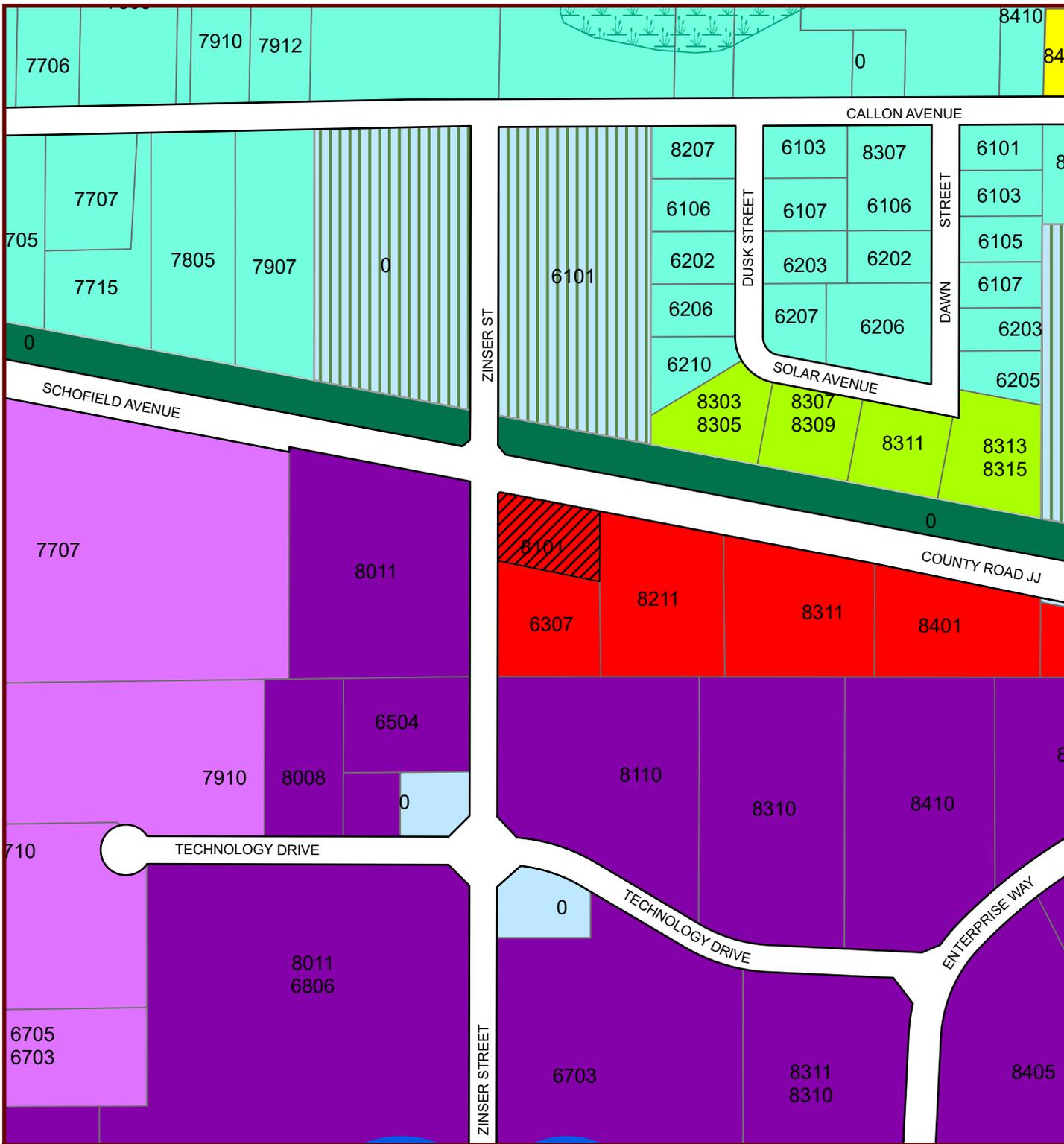
B-3 General Business

LI Limited Industrial

GI General Industrial

### OVERLAY ZONING DISTRICTS

D-RT Design: Rail-to-Trail Overlay





**Storm water will flow off-site, untreated, at an increased rate due to the reduction of green space. There will not be any space left on the east side of the parking lot for the required amount of landscaping for new hard surfaces. There will not be any area for snow storage. Snow will have to be removed from the site.**

Mitigation:

**There is not any mitigation proposed.**

Extent to which mitigation reduces project impact:

**The mitigation (none) will not reduce the impact of this proposed project.**

Long Term Impacts (through the completion of construction):

**If a sidewalk were to be constructed on the south side of Schofield Avenue, it would leave a 2-foot strip of green space between the sidewalk and the parking lot. On the east side of the property, the parking lot will be on the property line, which may have adverse effects on the development of the lot directly to the east.**

Mitigation:

**There is not any mitigation on site proposed.**

Extent to which mitigation reduces project impact:

**The mitigation (none) will not reduce the impact of this proposed project.**

Cumulative Impacts (through the completion of construction):

**There will be an increase in sedimentation in the storm water system from the untreated storm water runoff from the site.**

Mitigation:

**There is not any mitigation on site proposed.**

Extent to which mitigation reduces project impact:

**There will be an increase in sedimentation in the storm water system from the untreated storm water runoff from the site.**

#### **WILL GRANTING THE VARIANCE HARM THE PUBLIC INTEREST?**

No, mitigation measures described above will be implemented to protect public interests for the front yard hard surface setback reduction.

Yes, a variance should not be granted from the reduction of the interior side yard hard surface setback.

#### **STAFF RECOMMENDATION:**

Staff is in favor of granting a variance for 13 feet for the front setback based on the taking of right-of-way by the County in the late 90's. Due to the concerns of storm water and green space, along with the lack of unique property circumstances and the creation of a self-induced hardship, the petition for the reduction of the setback on the east interior lot line to 0 should be denied. Furthermore, it should be required that the gravel is removed, and landscape and turf be installed upon construction of the parking lot.



That compliance with the strict letter of the zoning ordinance would create unnecessary hardship due to a unique property condition, meaning a special physical feature or limitation of the property that is not generally shared by nearby land or property within the same zoning district. If a variance applicant fails to prove the existence of a unique property condition and a connection between the condition and the hardship, even if the hardship is great, a variance may not be granted.	<input type="checkbox"/> YES <input type="checkbox"/> NO
Because:	
That the requested variance will not be contrary to the public interest, the intent and purpose of this Chapter, or the Village's Comprehensive Plan.	<input type="checkbox"/> YES <input type="checkbox"/> NO
Because:	
That the requested variance is for a provision of this Chapter authorized for potential variances under Section 94.16.11(2), and in no case shall allow a land use that is not listed as a permitted, conditionally permitted, or temporary land use in the associated zoning district.	<input type="checkbox"/> YES <input type="checkbox"/> NO
Because:	
Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance.	<input type="checkbox"/> YES <input type="checkbox"/> NO
Because:	

**ORDER AND DETERMINATION**

On the basis of the above Finding of Fact, Conclusion of Law and the record in this matter, the Zoning Board of Appeals orders:

The petition for the variance is [DENIED / GRANTED / GRANTED-IN-PART] subject to the following: <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> <li>4.</li> <li>5.</li> </ol>
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The Zoning Administrator is directed to issue a zoning permit incorporating these conditions and certifying by the petitioner/applicant's signature that he or she understands and accepts these conditions.

EXPIRATION OF THE PERMIT: Any privilege granted by this decision must be exercised within 2 calendar years of the date of this decision after obtaining the necessary building, zoning, and/or other required permits of the proposed construction. The period will be extended if this decision is stayed by the order of any court or operation of law.

REVOCACTION: This order may be revoked by the Zoning Board of Appeals after notice and opportunity to be heard for violation of any of the conditions listed within this decision.

APPEALS: This decision may be appealed by a person aggrieved by this decision or by any officer, department, board or bureau of the municipality by filing an action in certiorari in the Circuit Court of Marathon County within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to the reliance on the decision if construction commenced prior to expiration of this 30-day period.

VILLAGE OF WESTON ZONING BOARD OF APPEALS

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It's Chair

Date: \_\_\_\_\_

Filed: \_\_\_\_\_

Recorded: \_\_\_\_\_

Document Number: \_\_\_\_\_

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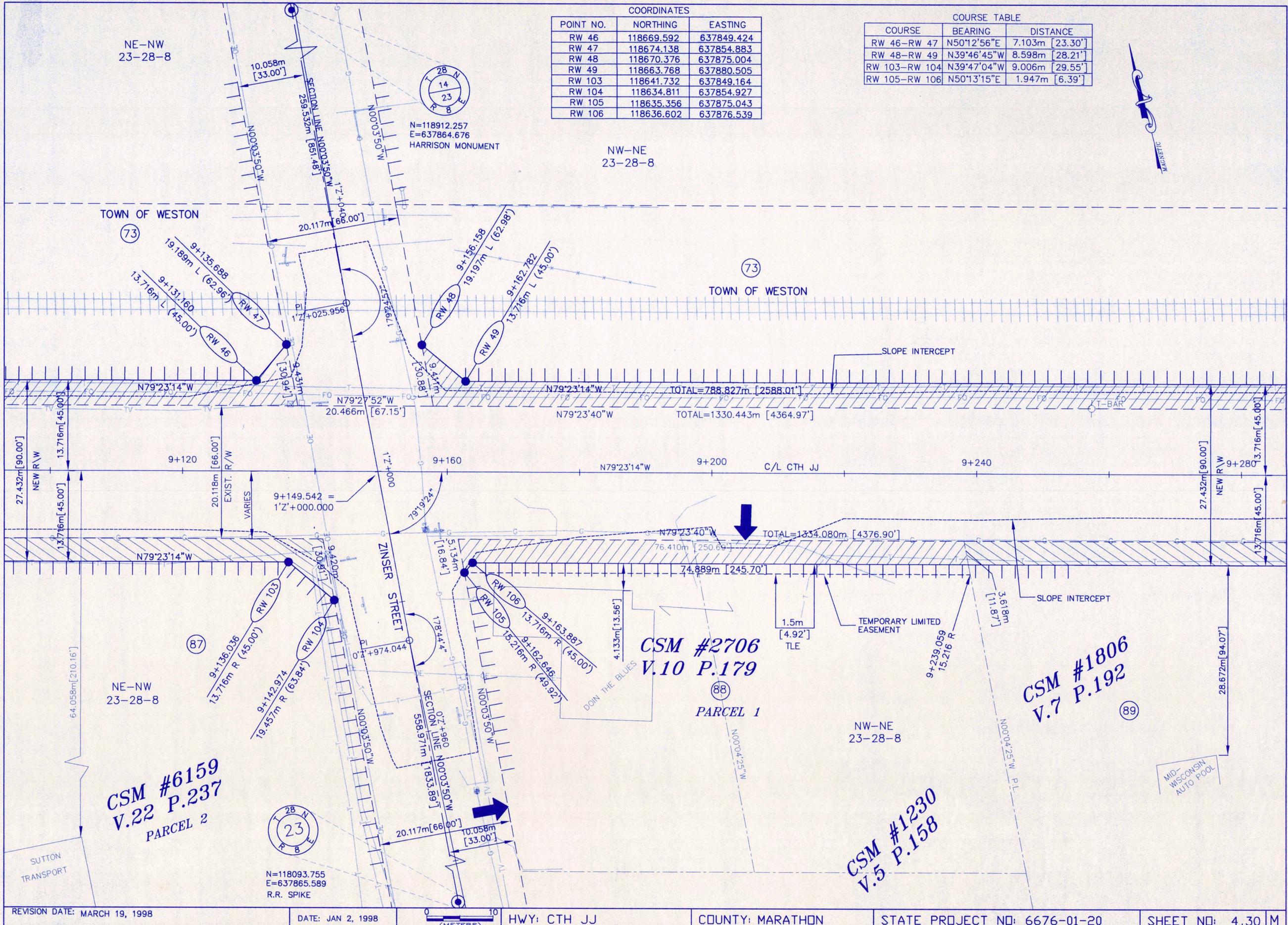
Attest: Secretary

PLOT SCALE: 1:1

PLOT NAME: SHT1.PLT

REV. DATE: 3-16-98

ORIGINATOR: JMW



COORDINATES

POINT NO.	NORTHING	EASTING
RW 46	118669.592	637849.424
RW 47	118674.138	637854.883
RW 48	118670.376	637875.004
RW 49	118663.768	637880.505
RW 103	118641.732	637849.164
RW 104	118634.811	637854.927
RW 105	118635.356	637875.043
RW 106	118636.602	637876.539

COURSE TABLE

COURSE	BEARING	DISTANCE
RW 46-RW 47	N50°12'56"E	7.103m [23.30']
RW 48-RW 49	N39°46'45"W	8.598m [28.21']
RW 103-RW 104	N39°47'04"W	9.006m [29.55']
RW 105-RW 106	N50°13'15"E	1.947m [6.39']



**Petition for Variance**

Application  
Village of Weston/ETZ

Date: 4/11/2018

Permit No. : \_\_\_\_\_

Payment:  Cash  Check No. 5582 90

**FULL COMPLETION OF THIS FORM IS REQUIRED FOR PROCESSING**  
**NO HAND WRITTEN APPLICATIONS WILL BE ACCEPTED**



5500 Schofield Ave  
Weston, WI 54476

**PROPOSALS AND FEES**

Variance

**\$ 400.00**

**DESCRIPTION OF PROCESS**

A variance is a relaxation of a standard in the Village of Weston Zoning Ordinance of the Municipal Code. Variances are decided by the zoning board of appeals. The Zoning Board of Appeals is a quasi-judicial body because it functions similar to a court of law. The Board's job is not to compromise ordinance provisions for a property owner's convenience, but to apply legal criteria provided in state laws, court decisions and the local ordinance to a specific fact situation. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden.

**Along with the completion and submittal of this application, the following must be completed and provided:**

- The fee of \$400.00. Checks may be written out to the "Village of Weston."
  - A detailed plan describing your lot and project (location, dimensions and materials). A Certified Survey Map may be required.
  - All lot lines, proposed building dimensions and other features be staked out related to your request so that the site may be inspected by the Zoning Board of Appeals. No contact may be made with any member of the board during these site visits.
- Following these steps, the Department of Planning and Development will publish notice of your request for a variance in the Village Official Newspaper of Record noting the location and time of the required public hearing before the Zoning Board of Appeals. Your neighbors and any affected state agencies will be notified. The burden will fall onto you, the property owner, to provide information upon which the Zoning Board of Appeals may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or the agent must convince the Zoning Board of Appeals to make a ruling in your favor. The Zoning Board of Appeals must make a decision based only on the evidence submitted to it at the time of the hearing. Unless you or your agent are present, the Zoning Board of Appeals may not have sufficient evidence to rule in your favor and must then deny your application.

**APPLICANT INFORMATION**

Applicant Name: Michael Erdmann  
Mailing Address: P.O. Box 121  
Weston, WI 54476

Agent\*  Property Owner  
Phone: (715) 241-8999  
Email: michael.erdmann@hotmail.com

\* Agents must have a LETTER OF AUTHORIZATION from all property owners at the time of filing.

Property Owner: Michael Erdmann  
Mailing Address: P.O. Box 121  
Weston, WI 54476

Contact Name: Michael Erdmann  
Phone: (920) 450-2313  
Email: michael.erdmann@hotmail.com

**PROJECT SITE SPECIFICATIONS**

Project Address: \_\_\_\_\_  
(or PIN if no address)

Lot Size(ft<sup>2</sup>): \_\_\_\_\_

Acres: \_\_\_\_\_

Property Zone: \_\_\_\_\_

Future Land Use \_\_\_\_\_

Designation: \_\_\_\_\_

Legal Description: \_\_\_\_\_

## ELIGIBLE PROVISIONS FOR WHICH VARIANCES MAY BE GRANTED

Variations from the regulations of this Chapter may be granted only in the following instances and in no others. Please check the following instance in which you, the applicant, are applying for a variance:

- To permit any setback, principal building separation distance, or landscape surface ratio that is less than the setback, principal building separation distance, or landscape surface ratio required within the applicable zoning district under Article 5.
- To permit building construction on a lot where otherwise prohibited solely because of the insufficient lot area, lot width, or lot frontage within the applicable zoning district under Article 5. In no event shall the respective lot area, lot width, or lot frontage be less than 75 percent of the required dimension under Article 5.
- To permit a building, fence, wall, or other structure height that is greater than that required within the applicable zoning district under Article 5, Section 94.12.03, or any other provision of this Chapter.
- To permit a maximum or minimum floor area or density of any building or use so limited by the applicable regulations in this Chapter to vary by not more than 25 percent, where the matter is not otherwise covered by the above eligible variances.
- To permit variations from an access, driveway, off-street parking, traffic circulation, or loading standard in Sections 94.12.08 to 94.12.10.
- To permit installation of a holding tank in a circumstance that does not meet the requirements in Section 94.3.03(13).

## APPLICATION REQUIREMENTS

Maps showing the current location and current zoning and future land use of all lands for which the conditional use permit is proposed, the location and current zoning of all lands within 300 feet, and the jurisdiction(s) within the subject property lies (Village of Weston or Town of Weston) will be provided by Village Staff.

The following questions must be answered by the applicant. If necessary, please use an additional sheet of paper and attach to the applications. All responses MUST be typed.

1. Describe all current uses and improvements on the subject property.

Current uses are a Restaurant & Bar. I've made many improvements on the property. Outside I put a new front entrance on along with a new back entrance with wheelchair access. Put new blacktop on existing old & crumbled blacktop in 2017

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

NONE I'm aware of

3. Description of all non-conforming structures and uses on the property.

NONE

4. Describe the variance being requested.

Im requesting a 13' variance on the North side of parking lot that runs the entire length of parking lot to east property line. Also asking for a 10' variance on east side of parking lot running entire length to south property line.

5. Describe the effect on the property if the variance is not granted.

In the 5 years since I opened Trailside I've made some great improvements to the building & property. I've grown the business to a premier restaurant for the Greater Wausau/Weston Area. If this is not granted, it hurts my abilities to meet the demand needed for parking lot space. I need as much space needed to maximize my parking for my business. The less space I have the less customers can come in, which will greatly hurt my business.

## ALTERNATIVES

Describe the alternatives to your proposal such as other locations, design and construction techniques. Attach a site map showing ALL the alternatives that have been considered in each category provided. If necessary, please use an additional sheet of paper and attach to the applications. All responses MUST be typed.

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

NO other Alternatives. Ive tried talking to the landowner to my east but his price is to excessive.

2. Alternatives you considered that require a lesser variance and reasons you have rejected them. If you have rejected such alternatives, then provide the reasons for which you have rejected them.

For reasons stated earlier, I need to have these variances accepted at their current proposals to meet the high customer demand at my business.

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### THREE-STEP TEST

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**Step 1: Unique property limitations.** Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance.

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

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

- No. A variance cannot be granted.

**Step 2: No harm to Public Interests (will be completed by staff see below under 'STAFF REVIEW').** A variance may not be granted which results in harm to public interests. In applying this test, the zoning board must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Protecting the public health, safety, morals, comfort, convenience, and general welfare;
- Implementing the Comprehensive Plan to the extent possible under zoning;
- Controlling and lessening congestion in the streets;
- Securing safety from fire, panic, and other dangers;
- Promoting adequate light and air;
- Encouraging the protection of natural resources;
- Preventing the overcrowding of land and undue concentration of population;
- Preserving and enhancing property values;
- Facilitating adequate transportation, water, sewage disposal, parks, and other public facilities;
- Promoting high quality and sustainable community design;
- Managing growth and the impacts of land development; and
- Preserving and enhancing community appearance and quality of life.

**Step 3: Unnecessary Hardship.** An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

- For an AREA variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome. The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.
- For a use variance, unnecessary hardship exists only if the property owner shows that they would have no reasonable use of the property without a variance.

**Is unnecessary hardship present?**

Yes. Describe in detail.

Due to the expansion of Schofield Ave, the property at 8101 Schofield Ave lost a lot of its original parking area. I want to finish the rest of the parking lot with black top because currently the area that is in gravel is always having puddles after rain, and in winter and spring difficulties with plowing snow off of it and taking the top of the gravel and dirt with it.

No. A variance cannot be granted.

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**CONSTRUCTION PLANS**

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Construction plans detailing the following must be provided:

- Property lines
- Vegetation removal
- Contour lines (2ft intervals)
- Ordinary high water mark
- Floodplain and wetland boundaries
- Dimensions, locations and setbacks of existing and proposed structures
- Utilities, roadways and easements
- Well and sanitary systems
- Location and extent of filling and grade
- Location and type of erosion control measures
- Any other contraction related to your request
- Anticipated start of construction

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**REIMBURSEMENT FOR DEVELOPMENT REVIEW SERVICES**

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The Village Planner, Village Engineer, Public Works Director, Village Attorney, and other Village staff and consultants may expend time in the administration, investigation, and processing of development review applications. In addition, the Village may retain the services of other professional consultants—including but not limited to landscape architects, architects, environmental specialists, and recreation specialists—in the investigation and processing of such applications.

Reinforcing the requirements of Section 94.16.18(4) of the Village zoning ordinance, the signing and submittal of this application or petition for development review shall be construed as an agreement to pay for professional consulting services associated with the administration, investigation, and processing of this application or petition. The Village Administrator shall retain sole discretion in determining when and to what extent it is necessary to involve one or more professional consultants in the review of each application or petition.

The Applicant shall be responsible for the costs for such professional consulting services. The Applicant shall pay such costs upon receipt of one or more invoices from the Village, following the execution of the development review services associated with the application. In the event the Applicant fails to pay such costs, the responsibility shall pass to the property owner, if different, under the same terms. Development review fees that are assigned to the Applicant or property owner, but that are not actually paid, may then be imposed by the Village as a special charge on the affected property.

In the event the Village should chooses to exercises the above stated policy, and as stated in the Zoning Code, the applicant shall be notified and consulted with prior to Staff expending additional time that is not already built into the review process fee and/or the hiring of a professional consultant for the review, processing and investigation of this application. The intent of the Zoning Administrator is to exercise this policy in extreme and unusual circumstances or in the absence of the Zoning Administrator.

**STATEMENT OF UNDERSTANDING AND SIGNATURES**

By signing and dating below, I acknowledge that I have reviewed and understand the Village of Weston zoning ordinance and its standards of approval related to this application; read, understand, and accept my responsibilities under the reimbursement section above; submitted an application that is true, correct, and complete to the best of my knowledge; acknowledge that Village officials and/or employees may, in the performance of their functions, enter upon the subject property to inspect or gather information necessary to process this application; understand that all meeting dates are tentative and may be postponed by the Village for the reason of incomplete submittals or other administrative reasons; if this application is approved, agree to abide by this application, approved plans, and required conditions associated with plan approval in the development of the subject property; and understand that the Village's zoning ordinance and/or the conditions of development approval may specify timeframes within which I must take certain actions related to the development of the subject property, or risk having the approval being nullified. **Failing to attach all the required components will deem the status of this application as incomplete. Incomplete applications will not be reviewed and shall be discarded within 30-days if the application status remains incomplete. Any fees collected will not be refunded.**

*Michael Erdmann*

4-11-18

Signature of Applicant

Date

Michael Erdmann

Print Applicant Name

Property Owner     Agent (*Agents must have a LETTER OF AUTHORIZATION from all property owners*)

STATE OF WISCONSIN        )  
  ) ss.  
COUNTY OF MARATHON     )

Personally appeared before me this 11 day of April 20 18, the above named individual, to me known to be the person who executed the foregoing instrument and acknowledge the same.



*Heather Meliska*

Notary Public

My Commission Expires:

4-13-21

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**STAFF REVIEW**

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PIN: \_\_\_\_\_ Zoning: \_\_\_\_\_  Village  ETZ  
Filed After the Fact:  Yes  No Fine Imposed:  Yes  No Amount: \_\_\_\_\_  
Publication of Notice Date 1: \_\_\_\_\_ Publication of Notice Date 2: \_\_\_\_\_

**Step 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 must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

Purpose of the ordinance in which the variance is being requested for.

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Purpose(s) of standard from which the variance is requested.

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

Short Term Impacts (through the completion of construction):

Impact: \_\_\_\_\_

Mitigation: \_\_\_\_\_

Extent to which mitigation reduces project impact: \_\_\_\_\_

Long Term Impacts (through the completion of construction):

Impact: \_\_\_\_\_

Mitigation: \_\_\_\_\_

Extent to which mitigation reduces project impact: \_\_\_\_\_

Cumulative Impacts (through the completion of construction):

Impact: \_\_\_\_\_

Mitigation: \_\_\_\_\_

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Extent to which mitigation reduces project impact: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Will granting the variance harm the public interest?**

- Yes. A variance cannot be granted.
- No, mitigation measures describes as above will be implemented to protect public interests.

**Village of Weston Zoning Board of Appeals**

**FINDING OF FACT.** Having heard the testimony and considered the evidence, the Zoning Board of Appeals determines the facts of the case to be:

Filing Date: \_\_\_\_\_  
Affidavit of publication is on file.  
Hearing Date: \_\_\_\_\_

1. The applicant or appellant is (name and address):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The applicant or appellant is the owner/lessee/mortgagee of the following described property, which is the subject of the application:

\_\_\_\_\_ ¼ of \_\_\_\_\_ ¼ of Section \_\_\_\_\_ of Village of Weston, Marathon County

Also known as: \_\_\_\_\_

3. The property is currently used for

\_\_\_\_\_  
\_\_\_\_\_

and has been so used continuously since: \_\_\_\_\_

4. The property includes a non-conforming structure/use described as

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. The property has been the subject of a prior appeal/variance/conditional use described as:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. The applicant or appellant proposes (brief project description/attached plans)

\_\_\_\_\_  
\_\_\_\_\_

7. The applicant or appellant requests:  Use Variance  Area Variance

Under Section \_\_\_\_\_ of the Zoning Code.

8. The features of the proposed construction and property that relate to the grant or denial of the application or appeal are (refer to the language/standards of the ordinance):

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**CONCLUSION OF LAW.** Based on the above finding of fact the Zoning Board of Appeals concludes that:

Appeal/Interpretation – The order of the Zoning Administrator [ IS / IS NOT ] in excess of his/her authority because (or) The Zoning Administrator’s interpretation of Section \_\_\_\_\_ Of the Zoning Code [ IS / IS NOT ] a correct interpretation because: \_\_\_\_\_

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Variance – The Variance [ DOES / DOES NOT ] meet all three of the following tests:

1. The hardship [ IS / IS NOT ] due to physical limitations of the property rather than the circumstances of the appellant because:

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2. The Variance [ WILL / WILL NOT ] harm the public interest because:

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3. Unnecessary hardship [ IS / IS NOT ] present because:

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**ORDER AND DETERMINATION.** On the basis of the above finding of fact, conclusions of law and the record in this matter the Zoning Board of Appeals orders:

Appeal/Interpretation - The Zoning Administrator’s order/interpretation of the Zoning Code or Map is [ AFFIRMED / MODIFIED / REVERSED ] and the administrator is ordered to:

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Variance – The requested variance is [ DENIED / GRANTED / GRANTED-IN-PART ] subject to the following:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

The zoning administrator is directed to issue a zoning permit incorporating these conditions and certifying by the petitioner/applicant's signature that he/she understands and accepts the conditions.

Expiration of Permit: Any privilege granted by this decision must be exercised within \_\_\_\_\_ Months of the date of this Decision after obtaining the necessary building, zoning and/or other permits of the proposed construction. This period will be extended if this decision is stayed by the order of any court or operation of law.

Revocation: This order may be revoked by the Zoning Board of Appeals after notice and opportunity to be heard for violation of any of the conditions proposed.

Appeals: This decision may be appealed by a person aggrieved by this decision or by any officer, department, board or bureau of the municipality by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

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Village of Weston Zoning Board of Appeals

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Signed: Chairperson

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Attest: Secretary

Date: \_\_\_\_\_

Filed: \_\_\_\_\_

Recorded: \_\_\_\_\_

Document No.: \_\_\_\_\_

Property Lines

# Trailside Sports Bar

 = Green Space Area

NO vegetation removal required for this project.



2 in 12

Schofield Ave

TRAILSIDE  
SPORTS BAR & GRILL  
6101 Schofield Ave  
Weston WI 54476

ENTRANCE

Drain

GRAVEL

Compound

Drainage

Drainage

Existing Building

Patio Area

Park

Grass

LANDSCAPE AREA

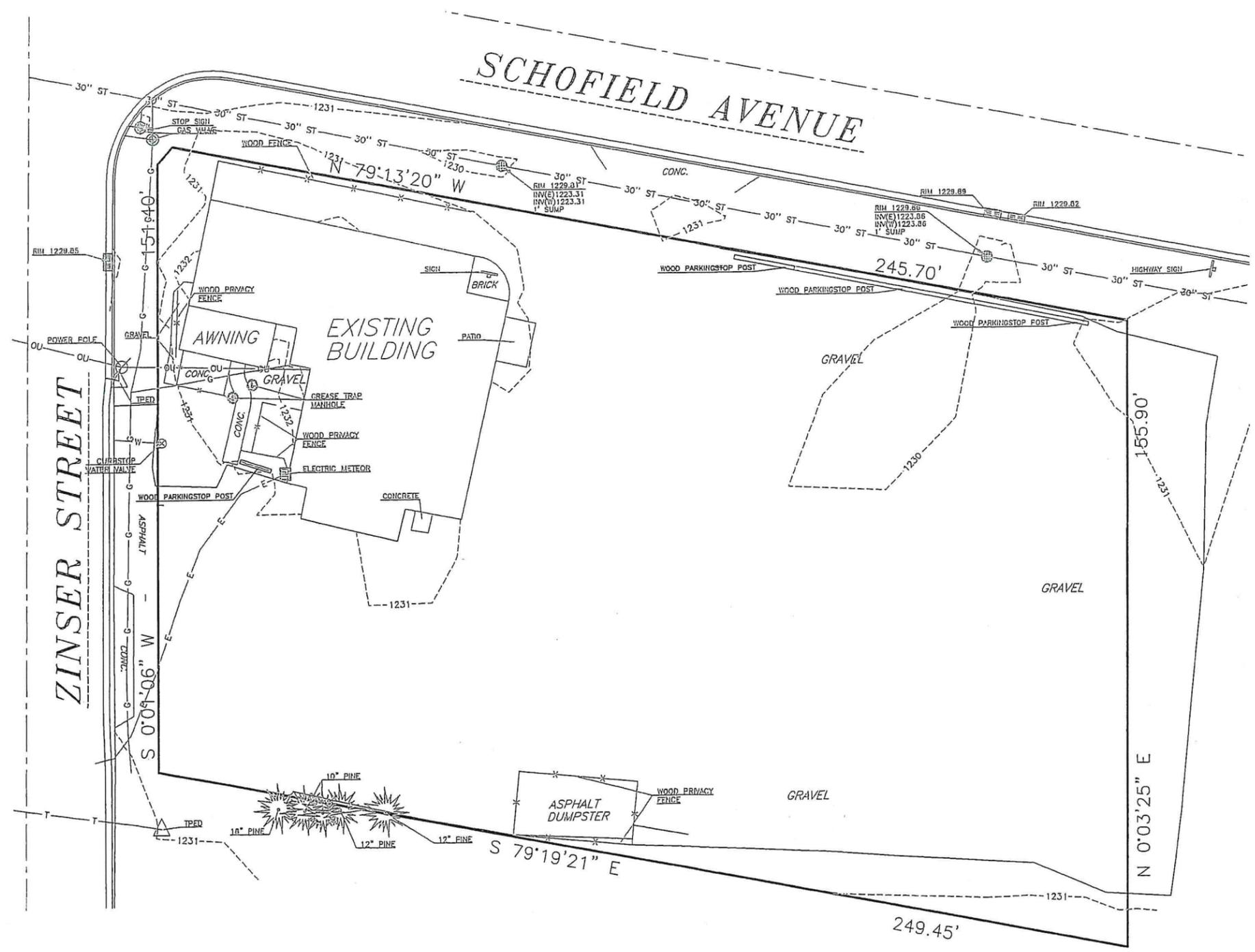
GRAVEL

GRAVEL

GRAVEL

GRAVEL

Curb



MARATHON TECHNICAL SERVICES LLC  
 CONSULTING ENGINEERS  
 404 FRANKLIN ST - WAUSAU, WI 54403  
 PHONE & FAX - (715)843-7292  
 WWW.MTSLLC.NET

REVISION DATE  
 SURVEYED: VREELAND  
 DESIGNED: MTS  
 DRAWN BY: DMV  
 APPROVED: MMT  
 PROJECT #: 1737

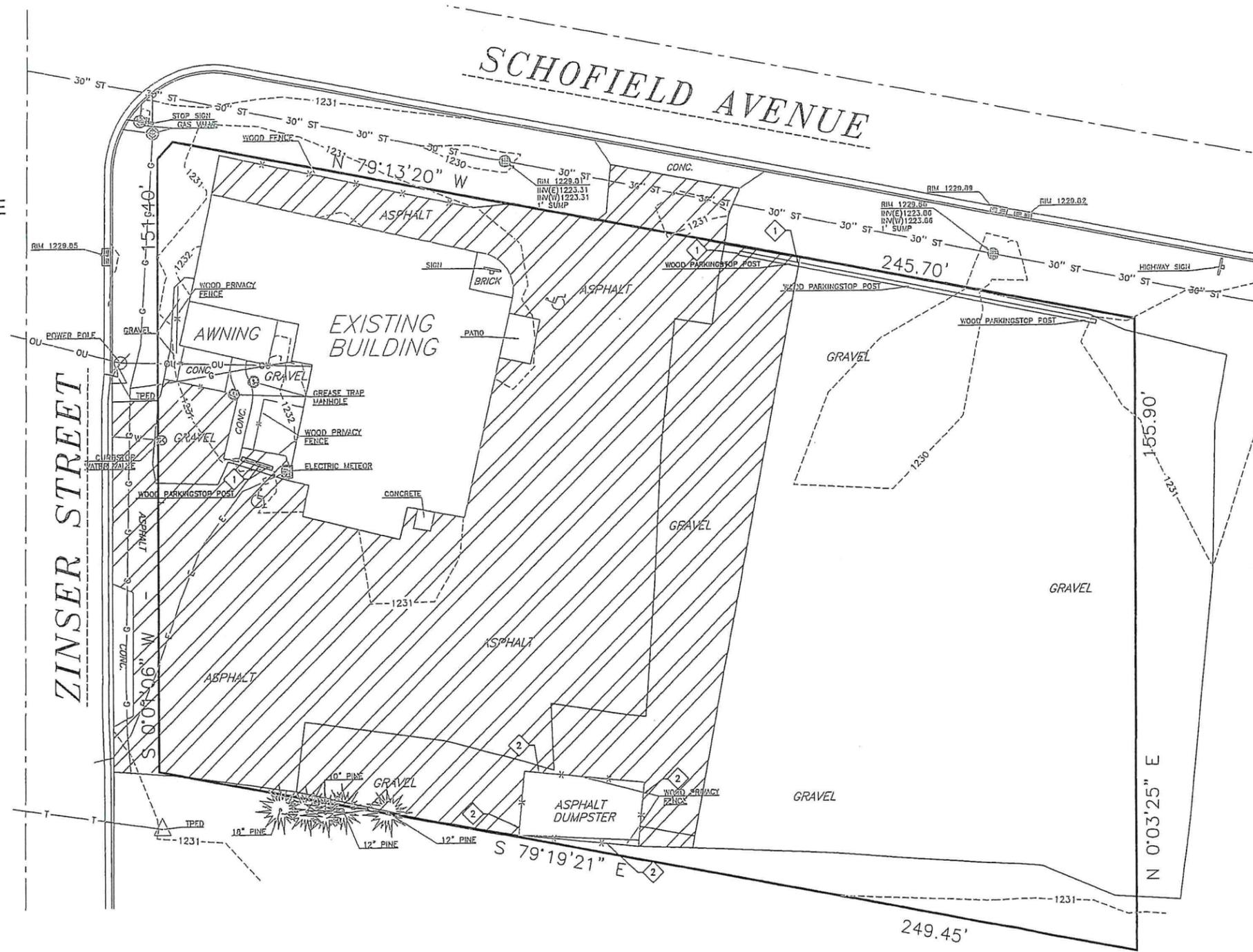
EXISTING SITE  
 TRAILSIDE PARKING LOT REDEVELOPMENT  
 VILLAGE OF WESTON, MARATHON CO.

SCALE  
 1" = 30'  
 SHEET NO.  
 2

**DEMOLITION KEYNOTES:**

- 1 REMOVE WOOD PARKING STOP POST
- 2 MAINTAIN EXISTING PRIVACY FENCE FOR DUMPSTER ENCLOSURE

 REMOVE EXISTING ASPHALT/GRAVEL



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PHONE & FAX - (715)843-7292  
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REVISION DATE  
SURVEYED: VREELAND  
DESIGNED: MTS  
DRAWN BY: DMV  
APPROVED: MMT  
PROJECT #: 1737

**DEMOLITION PLAN**  
TRAILSIDE PARKING LOT REDEVELOPMENT  
VILLAGE OF WESTON, MARATHON CO.

SCALE  
1" = 30'  
SHEET NO.  
3