



AGENDA
BOARD OF ZONING APPEALS MEETING
RICHFIELD VILLAGE HALL
4128 HUBERTUS ROAD, HUBERTUS, WISCONSIN
APRIL 13, 2015
6:30 P.M.

Pursuant to the requirements of Section 19.84, Wis. Stats., notice is hereby given of a meeting of the Village of Richfield Board of Zoning Appeals, at which a quorum of the Village Board may attend in order to gather information about a subject which they have decision making responsibility. The meeting will be held at the above noted date, time and location. Notice of Village Board Quorum, (Chairperson to announce the following if a quorum of the Village Board is in attendance at the meeting: "Please let the minutes reflect that a quorum of the Village Board is present and that the Village Board members may be making comments under the Public Comments section of the agenda, during any Public Hearing(s) or if the rules are suspended to allow them to do so.")

1. Call to Order/determination of quorum
2. Verification of Open Meetings Law compliance
3. Roll Call
4. Pledge of Allegiance
5. Approval of Minutes
 - a. February 9, 2015 - Regular Meeting
6. Recess and reconvene to gather additional information at 1913 STH 175 (Tax Key: V10_030500Z)
7. Reconvene at Village Hall
8. PUBLIC HEARING
 - a. Discussion/Action regarding a variance application submitted by B&B 3 Properties, LLC for property located at 1913 STH 175 (Tax Key: V10_030500Z)
9. ADJOURNMENT

Additional explanation of items on the agenda (Communication Forms) can be found on the village's website at www.richfieldwi.gov. Notification of this meeting has been posted in accordance with the Open Meeting Laws of the State of Wisconsin. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Requests from persons with disabilities who need assistance to participate in this meeting or hearing should be made to the Village Clerk's office at 628-2260 with as much advance notice as possible.

1. Call to Order

Chairman Bilda called the meeting to order at 7:30 p.m. In attendance were Board members Gallitz, Lietzau, Perrault, Weiland, and Alternates Schlei and Becker. Also in attendance were Village Attorney John Macy, Village Administrator Jim Healy, and Administrative Services Coordinator KateLynn Schmitt.

2. Verification of Open Meetings Law Compliance

Village Administrator Healy stated that meeting notice had been posted at all three U.S Post Office buildings, Village Hall and online. Additionally, proper Class II Public Notice was published in the West Bend Daily News.

3. Discussion

a. Training session on the duties of Board of Zoning Appeals members conducted by Attorney John Macy

Village Attorney John Macy discussed the purpose of dimensional and use variances and the various criteria required by Wisconsin State Statutes to grant one. Specific attention was given to previous decisions made by the Board of Zoning Appeals and the related discussions surrounding the recitations of the formal motions provided by the Board.

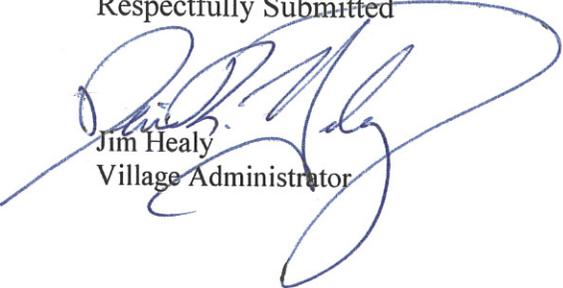
Village Administrator Healy discussed prior decisions by the Board of Zoning Appeals and discussed aspects of the "Decision Letters" that were given to the applicants.

Several members of the Board of Zoning Appeals asked questions of the Village Attorney regarding what constitutes "unique property limitations", "unnecessary hardships", or a "compelling public interest".

4. Adjournment

Motion by Brain Gallitz to adjourn; Seconded by Jack Lietzau; Motion passed without objection at 9:05 p.m.

Respectfully Submitted



Jim Healy
Village Administrator



VILLAGE OF RICHFIELD
BOARD OF ZONING APPEALS COMMUNICATION FORM
MEETING DATE: April 13, 2015

SUBJECT: Variance Petition for 1913 STH 175 (Tax Key: V10-0305-00Z)

DATE SUBMITTED: April 8, 2015

SUBMITTED BY: Jim Healy, Village Administrator

POLICY QUESTION: DOES THE BOARD OF ZONING APPEALS BELIEVE THE APPLICANT MET THE BURDEN FOR PROVING AN UNNECESSARY HARDSHIP, UNIQUE PROPERTY LIMITATIONS, AND A COMPELLING PUBLIC INTEREST FOR THE REQUESTED REAR YARD SETBACK VARIANCE OF 10' FROM THE CURRENT 25' SETBACK REQUIREMENT?

ISSUE SUMMARY:

“Rear yard” is defined by 70.12(B):

Rear Yard: *“A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure”.*

Setbacks are often used in the context of a minimum setback (analyzing tonight) which would be interpreted as a minimum distance between a structure (Accessory) and a property line.

The intent of the zoning district in question, B-3, General Business District is as follows:

“The B-3, General Business District is intended to provide for the orderly continuation and revitalization of the older established business areas of the Village where uses are not exclusively of one type but, rather, mixed and include retail sales shops, wholesale and warehousing outlets, and institutional, recreational, and even residential. Many of the existing businesses in the B-3 district may not meet the requirements of the B-1 or B-2 business districts. It is the intent of this B-3 district to provide minimum requirements for all new uses of land within the district and a guide for the redevelopment and revitalization of uses of land in existence on the effective date of the ordinance from which this chapter is derived”

The issue before us tonight is whether or not the petitioner (or agent) has made a compelling case for the requested ‘Area Variance’. Our applicant is requesting a variance from Section 70.199(G)(3) which states that rear yard setbacks must be a minimum of 25’ in the B-3, General Business District section of the Code. The petitioner is requesting a variance of 15’ so that he may have the ability to construct an accessory structure with a 10’ rear yard setback (Exhibit C). There is approximately 45’ from the rear of the building to the western property boundary line. Currently there is a building on the site of the subject property. The building is approximately 5,700 sqft. The Richfield USPO occupies one half of the building, the other half is presently not occupied to the best of Staff’s knowledge. On the west side of the building is an enclosed cyclone fence area. The fence is approximately 45’ wide by 56’ long (2,500 sqft. Area). It would appear from the survey provided (Exhibit B) that the fence goes directly up to the property boundary line or is 1’ off the property boundary line per our Village Code. On the southernmost boundary line the distance away from the property line varies between 28.01’ and 31.35’ per the petitioner’s survey. Looking at the north side of the property, according to the survey provided (Exhibit B) there is 29.86’ from the northeastern corner of the building to the property boundary line. Washington County’s Real Property Lister and GIS Department show the northernmost property boundary line approximately 7’ away at its closest point from Tax Key: V10_0306. The property directly to the north and the subject property are currently in common ownership (Forward Investors, LLC) and share a parking lot.

Area variances provide an incremental relief (normally small) from a physical dimensional restriction such a building height or setback (*State ex rel. Ziervogel v. Washington County Bd. Of Adjustments, 2004*). As you well-know, in order to legally grant a variance, the petitioner must prove three different criteria:



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Unnecessary Hardship: For this type of variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome (*State ex rel. Ziervogel v. Washington County Bd. Of Adjustment, 2004*). To determine whether this standard is met, our Board should consider the purpose of the zoning ordinance in question, its effects on the property, and the short-term, long-term, and cumulative effects of granting the variance (*State ex rel. Ziervogel v. Washington County Bd. Of Adjustments, 2004*).

Applicant’s Response:

“My client desires and requests approval of a rear yard of 10 feet so that they may build a properly proportioned warehouse facility adjacent to the southwest wall of the existing block building”.

“The purpose of the Code is to prevent new development from interfering with existing parcels and to preserve the “character” of the surrounding business district. The continuous parcel that directly abuts the rear yard of the property is zoned light industrial. The parcel is vacant and being used for farming purposes. We feel that our modest variance request will have no impact on the adjacent property and will not impact the current owner’s ability to fully utilize the parcel”.

“In absence of an Area Variance, the effect on the property’s use and value would be damaging. My client intends to construct a warehouse with a dimensional footprint of 70 feet long by 40 feet wide. Comparing the current zoning requirement with the Plat of Survey yields the following results:

	Current Zoning	Variance Granted
Rear Yard Width (Setback)	25’	10’
Length of Building	70’	70’
Width Available for Building	25’	40’

Staff’s Response:

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” (*State ex rel. Ziervogel v. Washington County Bd. Of Adjustment, 2004*). To determine whether this standard is met, the Board of Zoning Appeals should consider the purpose of the zoning ordinance in question, its effects on the property, and the short-term, long-term, and cumulative effects of granting the variance.

While certainly I won’t speculate as to the reasoning behind the 1983 adoption of this version of the zoning code, or the multiple nuances contained therein, from a planning and zoning perspective I can tell you that the purpose of the zoning ordinance in question relating to setbacks are the following:

- They provide uniformity to a neighborhood and determine the relationships and placement between structures.
- Setbacks allow a certain measure of privacy between neighbors, provide space for light and air circulation, and provide open space for landscaping, recreational use, and erosion control. They also provide distance between neighbors to mitigate noise and odors.



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- Setbacks also ensure that there is adequate room for emergency vehicles between and around the properties and access for utility works that need to deal with power, water, and gas lines. It also provides space for maintenance on the home.

In the Village's Zoning Code there are multiple standards for rear yard setbacks. The intention was that each zoning classification would be so uniquely different that they would require a different setback margin. Presumably, these required distances vary based on the size of properties, types of uses allowed, or because of their proximity to other non-related land uses (ie: Single Family Residential Housing). As a general principle, as lots become smaller, so do the setbacks. Also, the opposite is also sometimes true, as lots become larger, so do the setbacks.

According to the letter dated March 6, 2015 by Attorney Matt DeMark, "[M]y client has submitted an offer to purchase for the property which is currently owned by Forward Investors, LLC. The offer to purchase is contingent upon the Planning and Zoning Department granting this zoning variance request". An applicant may not claim a hardship because of conditions which are self-imposed (*State ex rel. Markdale Corp v. Bd of Appeals of Milwaukee, 1965; Snyder v. Waukesha County Zoning Bd. Of Adjustments 1976*). Additionally, it should be noted that the petitioner could construct an accessory structure that is 20' wide. Additional information will need to be gathered during the site visit and Public Hearing to determine if this standard is met.

Hardship Due to Unique Property Limitations

Unnecessary hardship must be due to unique physical limitations of the property, such as steep slopes or wetlands that prevent compliance with the ordinance (*State ex rel. Spinner v. Kenosha County Bd. Of Adjustments, 1998*).

Applicant's Response:

"The most significant limitation pertaining to the intended use of the property is its narrowness in depth. Compliance with the 25 feet rear yard requirement would allow for a maximum building width of only 25 feet. The overall impact would severely limit my client's ability to construct a reasonably sized commercial (emphasis omitted) warehouse".

Staff's Response:

The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances (*Snyder v. Waukesha County Zoning Bd. Of Adjustment, 1976*). Additionally, the Board may only grant the minimum variance needed (*Anderson, Robert M. American Law of Zoning, 1986 Vol.3*). For an area variance, the standard would be the incremental amount that would relieve unnecessary burdens. For example, if a petitioner requests a variance of 30' from setback requirements, but the zoning board finds that a 10' setback reduction would not be unnecessarily burdensome, the board should only authorize a variance for the 10' setback reduction. Also, Staff's understanding is that the property directly north may also be involved in this real estate transfer. If that is the case, the properties could be combined via a Certified Survey Map and the desired accessory structure could conceivably be built. Additional information will need to be gathered during the site visit and Public Hearing to determine if this standard is met.

No Harm to Public Interests



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A variance may not be granted which results in harm to public interests (*State v. Winnebago County, 1995; State v. Kenosh County Bd. Of Adjustments, 1998*). In applying this test, the Zoning Board should review the purpose statement of the ordinance and related statutes (both stated above) in order to identify public interests.

In light of public interests, zoning boards must consider the short-term and long-term impacts of the proposal and the cumulative impacts of similar projects on the interest of neighbors, the community, and even the state. Review should focus on the general public interest, rather than the narrow interests or impacts on neighbors, patrons or residents in close proximity of the project.

Applicant's Response:

"We believe that if the variance is granted, there will be no harm to public interests. In fact, granting the ear yard variance would promote the interests of the business district, the Village of Richfield, and Washington County in the following ways:

- *Increase customer traffic and foster greater awareness of the business establishments in the Village.*
- *Establishment of an anchor business in the downtown area. This would help drive business to smaller retailers, bars and restaurants and give customers, who typically would not shop in Richfield, a reason to patronize Village businesses.*
- *Build business infrastructure in Richfield.*
- *Greater long-term real estate tax collections for Washington County.*

Staff's Response:

In looking at the totality of what this decision may have on the Village, oftentimes the first place to look as a Staff is the actual intent of the zoning district (previously stated). From looking at the petition from a globalized perspective, one could make an argument that reducing the rear yard setbacks for this property or other similar properties may not have a negative cumulative effect because the vast majority of B-3 properties are within this small corridor. Staff is of the mindset that the public interest is served best and the spirit of the ordinance is followed when citizens are allowed a reasonable use of their property as prescribed by the Village Code. The agent's arguments regarding future tax revenue and property values are invalid for reasons previously stated. More information will need to be gathered during the Public Hearing to see whether or not this standard has been met.

FUTURE IMPACT & ANALYSIS:

REVIEWED BY: _____
Village Deputy Clerk

Forward to Village Board: No
 Additional Approvals Needed: No
 Signatures Required: YES

ATTACHMENTS:

1. E-mail from West Bend Daily News confirming publication of the scheduled Public Hearing
2. List of properties who were notified of the scheduled Public Hearing
3. Application materials submitted by Attorney Matthew DeMark, Agent for the Applicant
4. 70.199, B-3 General Business District

STAFF RECOMMENDATION:



VILLAGE OF RICHFIELD
BOARD OF ZONING APPEALS COMMUNICATION FORM
MEETING DATE: April 13, 2015

MOTION TO DIRECT STAFF TO DRAFT A FORMAL DECISION LETTER REGARDING THE VARIANCE PETITION, PROCEEDINGS, AND GENERAL OUTCOME WITH THE INTENTION THAT THIS LETTER WILL BE SIGNED BY THE VOTING MEMBERS OF THE BOARD OF ZONING APPEALS AND A COPY OF SAID DOCUMENT WILL BE PROVIDED TO THE PETITIONER.

APPROVED FOR SUBMITTAL BY:	VILLAGE CLERKS USE ONLY BOARD ACTION TAKEN	
_____ Village Staff Member	Resolution No. _____ Ordinance No. _____	Continued To: _____ Referred To: _____
_____ Village Administrator	Approved _____ Other _____	Denied _____ File No. _____

Deputy Clerk

From: Deputy Clerk
Sent: Friday, March 27, 2015 1:36 PM
To: 'Freeman Legals'
Subject: Notice of Public Hearing
Attachments: 2015.4.13 Class II Public Notice Bushalacehi Variance.docx

Marsha,

Please publish on Tuesday March 31st and Tuesday April 7th.

Thanks for all your help!

Laura Johnson
Deputy Clerk
Village of Richfield
Population 11,300

4128 Hubertus Road
Hubertus, WI 53033
(262)628-2260
(262)628-2984 - FAX
richfieldwi.gov

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(Class II Public Notice)
NOTICE OF PUBLIC HEARING
VILLAGE OF RICHFIELD
Monday, April 13, 2015

PLEASE TAKE NOTICE:

Pursuant to the requirements of Section 19.84, Wis. Stats., and provisions of the Village of Richfield Zoning Ordinance, the Richfield Board of Appeals will conduct a public hearing on Monday, April 13, 2015 at 6:30 p.m. at the Village Hall located at 4128 Hubertus Road, to consider the variance petition submitted by Anthony J. Bushalacehi (B & B 3 Properties LLC) for property located at 1913 State Highway 175 (Tax Key: V10-0305-00Z & V10-0306). The petitioner is seeking a variances from Section 70.199(G)(3), which requires a minimum rear yard setback of 25 feet.

The Board will convene the meeting at the time specified above. Pursuant to provisions of the Village of Richfield Zoning Ordinance, the Board will view the subject property at that time. Following the site inspection, the Board will reconvene at the Village Hall for further deliberations.

Jim Healy
Village Administrator
Planning and Zoning Administrator

Publish:
Tuesday, March 31, 2015
Tuesday, April 7, 2015

Daniel R. Goetz
OR CURRENT RESIDENT
3284 Conestoga Trail
Richfield, WI 53076

Peter F. Dubois
W145 N8556 Patricia Pl
Menomonee Falls, WI 53051

CURRENT RESIDENT
1936 State Hwy 175
Richfield, WI 53076

Jeffrey P. Hamilton
OR CURRENT RESIDENT
1905 Railroad St
Richfield, WI 53076

Kelly A. Wagner
OR CURRENT RESIDENT
1899 Railroad St
Richfield, WI 53076

Shirley M. Kraetsch
OR CURRENT RESIDENT
1900 State Hwy 175
Richfield, WI 53076

Betty Jane Holdings LLC
OR CURRENT RESIDENT
1909 State Hwy 175
Richfield, WI 53076

Forward Investors LLC
1247 State Hwy 175
Hubertus, WI 53033

CURRENT RESIDENT
1903 State Hwy 175
Richfield, WI 53076

James A. Heyden
OR CURRENT RESIDENT
1895 State Hwy 175
Richfield, WI 53076

Thomas Frase
OR CURRENT RESIDENT
1949 Woodside Ln
Richfield, WI 53076

Craig W. Laabs
OR CURRENT RESIDENT
1928 Woodside Ln
Richfield, WI 53076

Earl Klippel Sr Life Estate
622 Colgate Rd
Colgate, WI 53017

CURRENT RESIDENT
1924-1928 State Hwy 175
Richfield, WI 53076

Esther Kainz
OR CURRENT RESIDENT
1920 State Hwy 175
Richfield, WI 53076

Andrew P. Stegemeyer
4039 Lovers Ln
Slinger, WI 53086

CURRENT RESIDENT
1912 State Hwy 175
Richfield, WI 53076

CURRENT RESIDENT
1891 Railroad Street
Richfield, WI 53076

Lance Quigley
PO Box 310
Richfield, WI 53076

CURRENT RESIDENT
1945 State Hwy 175
Richfield, WI 53076

Dawg House Enterprises LLC
4190 Fond Du Lac Dr
Slinger, WI 53086

CURRENT RESIDENT
1907 State Hwy 175
Richfield, WI 53076

Harold A. Oswald
Or CURRENT RESIDENT
1937 Woodside Ln
Richfield, WI 53076

Howard A. Bogenschild
OR CURRENT RESIDENT
3062 Polk St
Richfield, WI 53076

RICHFIELD VOLUNTEER FIRE CO.
2008 State Hwy 175
Richfield, WI 53076

Carla Whitcomb
OR CURRENT RESIDENT
3090 Polk Street
Richfield, WI 53076

Carla Whitcomb
P.O. Box 277
North Prairie, WI 53153-0277

David Kempfer
OR CURRENT RESIDENT
1953 State Hwy 175
Richfield, WI 53076

Craden Mfg Co Inc
1961 State Hwy 175
PO Box 116
Richfield, WI 53076

Joseph R. Martin
OR CURRENT RESIDENT
1911 Railroad St
Richfield, WI 53076

Shirley M. Kraetsch
OR CURRENT RESIDENT
1890 State Hwy 175
Richfield, WI 53076

Patricia Borlen
223 Fifth St Apt 212
Hartford, WI 53027

CURRENT RESIDENT
1904 State Hwy 175
Richfield, WI 53076

Janice D. Kelley
OR CURRENT RESIDENT
3078 Polk St
Richfield, WI 53076

Mailing List for Public Hearing

- Hwy 175
- Parcels V10-0306 &
- V10-030500Z (V10-0305)

Victor W. Debroux
OR CURRENT RESIDENT
1940 Woodside Ln
Richfield, WI 53076

Sharon A. Becker
OR CURRENT RESIDENT
1952 Woodside Ln
Richfield, WI 53076

Opa Enterprises LLC
3640 Red Oak Ct
Hubertus, WI 53033

CURRENT RESIDENT
3070 DEPOT STREET
Richfield, WI 53076

Village of Richfield, WI
Wednesday, April 8, 2015

Chapter 70. Zoning

ARTICLE III. Districts

70.199. B-3 General Business District.

- A. Intent. The B-3 general business district is intended to provide for the orderly continuation and revitalization of the older established business areas of the Village where uses are not exclusively of one type but, rather, mixed and include retail sales shops, wholesale and warehousing outlets, and institutional, recreational, and even residential uses. Many of the existing businesses in this B-3 district may not meet the requirements of the B-1 or B-2 business district. It is the intent of this B-3 district to provide minimum requirements for all new uses of land within the district and a guide for the redevelopment and revitalization of uses of land in existence on the effective date of the ordinance from which this chapter is derived.
- B. Permitted principal uses. Permitted accessory uses in the B-3 district are all principal uses permitted in the B-1 and B-2 business districts.
- C. Permitted accessory uses. Permitted accessory uses in the B-3 district are as follows:
1. Garages for storage of vehicles used in conjunction with the operation of a business.
 2. Residential uses existing on the effective date of the ordinance from which this Chapter is derived.
 3. Off-street parking and loading areas.
 4. Nonilluminated or internal illuminated nonflashing signs (see section 70.185).
- D. Conditional uses. Conditional uses in the B-3 district are as follows:
1. Uses similar in character to the permitted uses listed in subsections (B) and (C) of this section and conducted as business on the premises and catering to the general public.
 2. The following general uses:
 - Auto accessory sales and service.
 - Auto and truck rental.
 - Auto repair shops.
 - Boardinghouses.
 - Body shops.
 - New and used auto and truck sales and service.
 - New and used marine sales and service.
 - Nightclubs and taverns.
 - Pawn shops.
 - Petroleum service stations.

- Places of entertainment for the general public.
 - Public and private institutional uses such as public buildings and churches.
 - Secondhand stores.
 - New residential uses.
 - Upholsterer's shops.
3. Residential dwellings provided that such dwellings are located in the principal building, not on the ground level floor, and that access to/from such dwellings is directly to/from the exterior of the building. There shall also be a minimum gross floor area of 750 square feet for an efficiency-type or one-bedroom dwelling unit, and 900 square feet for a two-bedroom unit. A dwelling unit with more than two bedrooms shall not be allowed.
 4. Animal hospitals, provided all principal structures and uses are not less than 100 feet from any residential use.
 5. Clubs, fraternities, lodges, and meeting places, provided all principal structures and uses are not less than 25 feet from any lot line.
 6. Commercial recreation facilities, such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf facilities, physical culture facilities, pool and billiard halls, skating rinks, and theaters.
 7. Construction services including general building contractors; carpentry services; wood flooring services; concrete services; masonry, stonework, tile setting and plastering services; roofing and sheet metal services; and water well drilling services.
 8. Experimental, testing, and research laboratories, provided all principal structures and uses are not less than 100 feet from residential uses.
 9. Freight forwarding services; packing and crating services and petroleum bulk stations and terminals.
 10. Fuel oil, bottled gas, and ice dealers.
 11. Millwork, lumberyards, saw mills and planing mills.
 12. Mortuaries.
 13. Processing and manufacturing of feeds prepared for animals and fowl; wholesale and/or retail warehousing of animal feeds, fertilizer, seeds, garden and lawn supplies, animal health products, and lawn equipment provided that all operations are conducted within an enclosed building.
 14. Rest homes, nursing homes, and elderly housing at densities not exceeding one living unit per net acre; clinics and children's nurseries provided all principal structures and uses are not less than 40 feet from any lot line.
 15. Slaughtering, meat packing, sausage processing and the processing of other prepared meats; poultry and game dressing and packing; locker plants, provided that all meat packing and processing are conducted within an enclosed building.
 16. Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios.
 17. Warehouse and indoor storage facilities.
- E. Lot area and width in the B-3 district are as follows:

1. Lots shall have a minimum area of two acres.
 2. Lots shall be not less than 200 feet in width at the building setback line.
- F. Building height and size. Building height and size in the B-3 district are as follows:
1. No building or parts of a building shall exceed 45 feet in height unless a modification concerning height is granted by the Plan Commission under subsection 70.161(F).
 2. No individual store, shop, or business establishment shall have a total floor area of less than 300 square feet.
 3. The sum total of the floor area of all principal and accessory uses shall not exceed 60% of the total lot area.

- G. Setback and yards. Setback and yards in the B-3 district are as follows:
1. A street yard building setback of 30 feet, or the average of adjacent uses, whichever is greater, shall be required.
 2. A side yard building setback shall be required as set forth in the following table:

Parcel Width (feet)	Minimum Side Yard Setback (feet)
<60	5
61 to 70	7
71 to 80	10
81 to 90	12
91 to 100	15
100 to 150	17
>150	20

3. There shall be a rear yard of not less than 25 feet.
- H. Parking and loading space. Parking and loading space in the B-3 district are as follows:
1. Minimum off-street parking requirements are:
 - a. Two square feet of paved off-street parking area for each one foot of floor space, for business uses; and
 - b. Two off-street parking spaces for each residential dwelling exclusive of and in addition to the off-street parking requirements for business uses (see section 70.185).
 2. There shall be a minimum of 1 1/2 parking spaces for each dwelling unit erected in the B-3 district after the date of the adoption of the ordinance from which this chapter is derived (see section 70.185).
 3. There shall be a minimum of one square foot of paved off-street loading/unloading area for each five square feet of retail floor area constructed in the B-3 district after adoption of the ordinance from which this chapter is derived.
- I. Minimum utility service. Minimum utility service in the B-3 district shall be electricity, and county approved wastewater treatment and disposal, and water supply systems.
- J. Special regulations. To encourage a business use environment in the B-3 district that is compatible with the residential character of the Village, building/zoning permits for permitted uses in the general business district shall not be issued without prior review by and approval of the Village Plan

Commission. Such review and approval shall be concerned with adjacent uses, general layout, building site and operation plans, ingress, egress, parking, loading and unloading, drainage, and screening and landscape plans.

[Ord. No. 01-07-01, § 3, 7-19-2001; Ord. No. 06-03-01, § 2, 3-16-2006]

Village of Richfield
Planning & Zoning Department
4128 Hubertus Road
Richfield, WI 53033

March 6, 2015

Re: B&B 3 Properties, LLC
Request for Zoning Variance
PIN: V10_030500Z



Dear Planning & Zoning Members:

By way of introduction, my name is attorney Matthew DeMark, and I represent B&B 3 Properties, LLC regarding its request for a zoning variance pertaining real property located at 1913 Highway 175 in the Village of Richfield, property identification number V10_030500Z (hereinafter "property"). My client has submitted an offer to purchase for the property which is currently owned by Forward Investors, LLC. The offer to purchase is contingent upon the Planning and Zoning Department granting this zoning variance request.

For your reference, I have included a Zoning Map (attached hereto as Exhibit A), and a Plat of Survey (attached hereto as Exhibit B), an Annotated Plat of Survey showing the footprint of the proposed building (attached hereto as Exhibit C), and several artistic renderings of the proposed structure (attached hereto as Exhibit D).

My client is planning to purchase the property and subsequently lease the property to Chase Electric, LLC (hereinafter "Chase"). Chase is an electrical contractor who plans on establishing their central offices in the Village of Richfield. Chase's intent is to purchase the property and construct a warehouse for the storage of electrical parts and supplies. Their target audience will be home builders and residential clients throughout Southeastern Wisconsin. My client and Chase feel that the Village of Richfield is an ideal location for their business. Chase's presence in the Village will bring significant revenues to Village by increasing business traffic and creating potential employment opportunities for Washington County residents.

We respectfully request that the Planning & Zoning Department grant my client a zoning variance that would allow a rear yard setback of 10 feet from the current 25 foot requirement. We believe that my client is eligible for an area variance and can satisfy the criteria defined in Wisconsin State Statutes §59.694(7)(c) by demonstrating that the current zoning restrictions for the Property 1) cause an unnecessary hardship; 2) that the hardship is due to the unique Property limitations; and 3) that the requested variance will not harm the public interests.

1. Unnecessary Hardship.

The Zoning Map indicates that the Property is Zoned B-3 (General Business District). Consequently, the dimensional restrictions set forth in the Village of Richfield's Code Section 70.199(G)(3) (hereinafter the "Code") are relevant to our variance request.

The Village of Richfield's Code states that for B-3 Districts, "There shall be a rear yard of not less than 25 feet". However, my client's desires and request approval of a rear yard of 10 feet so that they may build a properly proportioned warehouse facility adjacent to the southwest wall of the existing block building (please see Exhibits C and D). As such, we are requesting an **Area Variance** from the 25 foot rear yard requirement.

The purpose of the Code is to prevent new development from interfering with existing parcels and to preserve the "character" of the surrounding business district. The contiguous parcel that directly abuts the rear yard of the property is zoned light industrial. The parcel is vacant and being used for farming purposes. We feel that our modest variance request will have no impact on the adjacent property and will not impact the current owner's ability to fully utilize the parcel.

In absence of an Area Variance, the effect on the property's use and value would be damaging. My client intends to construct a warehouse with a dimensional foot print of 70 feet long by 40 feet wide. Comparing the current zoning requirement with the Plat of Survey yields the following results:

	Current Zoning	Variance Granted
Rear Yard Width	25'	10'
Length of Building	70'	70'
Width available for building	25'	40'

Under current zoning, my client's building would be limited to a width of only 25 feet resulting in an unusually narrow facility that would be inadequate to afford safe ingress and egress of trucks and forklifts. Compliance with the 25 foot rear yard requirement would severely impact my client's ability and likelihood of using the property for the intended business purpose. Strict compliance would create an unnecessary hardship for my client.

2. Unique Physical Property Limitations:

The most significant limitation pertaining to the intended use of the property is its narrowness in depth. Compliance with the 25 feet rear yard requirement would allow for a maximum building width of only 25 feet. The overall impact would severely limit my client's ability to construct a reasonably sized **commercial** warehouse.

3. No Harm to Public Interests:

We believe that if the variance is granted, there will be no harm to public interests. In fact, granting the rear yard variance would promote the interests of the business district, the Village of Richfield, and Washington County in the following ways:

- Increase customer traffic and foster greater awareness of the business establishments in the Village.
- Establishment of an Anchor business in the downtown area. This would help drive business to smaller retailers, bars and restaurants and give customers, who typically would not shop in Richfield, a reason to patronize Village businesses.
- Build business infrastructure in Richfield.
- Greater long-term real estate tax collections for Washington County.

For the reasons stated above, my client and I humbly request that you consider the facts and exhibits presented in this request and grant a rear yard variance changing the current requirement from 25 feet to 10 feet.

Very Truly Yours,



Matthew R. DeMark, Attorney



Jeff Busalacchi
(on behalf of B&B3 Properties, LLC)



**Village of Richfield
Planning and Zoning**

4128 Hubertus Road
Hubertus, WI 53033
(p)262.628.2260 ♦ (f)262.628.2984

VARIANCE APPLICATION CHECKLIST

- Pre-application meeting with Village Staff**
 - Date of meeting: _____
- Application Received**
 - Date received: _____
- Determination of completeness**
 - Date reviewed for completeness: _____
- Processing of application fee into BDS**
- Public Hearing notice sent to West Bend Daily News**
 - Confirmation of publication e-mail received on: _____
- Public Hearing notice published in newspaper, first insertion**
 - Date of first insertion: _____
 - Confirmed by Deputy Clerk: _____
- Public Hearing notice published in newspaper, second insertion**
 - Date of second insertion (7 days b/w last publication and public hearing): _____
 - Confirmed by Deputy Clerk _____
- Notice sent to property owners within 300' of property**
 - Date sent to property owners: _____
- Site visit and meeting agenda prepared**
- Site visit and meeting agenda posted at designated locations**
 - Hubertus Post Office _____
 - Colgate Post Office _____
 - Richfield Post Office _____
- Agenda sent to applicant(s)**
 - Via e-mail _____
 - Via regular mail _____
- Staff report sent to Board of Zoning Appeals members**
 - Date is Friday before Board of Zoning Appeals meeting: _____
- Staff report sent to applicant**
 - Date is Friday before Board of Zoning Appeals meeting: _____
- Meeting agenda posted online: _____**
- Board of Zoning Appeals meeting/public hearing**
- Written decision sent to applicant and/or minutes of meeting**
 - Date of decision letter being sent: _____
- Application information stored in Lazerfish: _____**

Variance
\$455.00

VARIANCE APPLICATION

Complete this application and submit nine (9) copies to the Village Planning and Zoning Administrator along with the application fee. Before you formally submit your application, you may submit one copy to the Planning and Zoning Administrator who will ensure it is complete and provides enough information to describe the circumstances related to this application.

Overview

The most common appeals heard by the Board of Appeals are from property owners seeking a "variance" from one or more of the dimensional requirements established in the Zoning Ordinance, e.g. building setbacks. A "variance" is permission granted by the Board of Appeals to build or develop in a way that is different than required or allowed under the Ordinance.

It is important to understand that in accordance with Wisconsin Statutes the Village's appeal procedures are enforced so that variances are granted only in response to unique limitations that affect and/or prohibit the use and development of a given property that are deemed by the Board of appeals to constitute an unusual or unnecessary, but not self-imposed "hardship" or circumstance, provided however that the requirements being varied to not result in harm to adjoining property, the neighborhood, and the general public interest.

Variances will not be granted for reasons that are common to other properties or for such simple reasons as the desires of the property owner. Variances are not granted routinely. Furthermore the existence of non-conforming buildings and properties or the granting of variances to other properties does not justify nor guarantee that the Board of Appeals will approve the variance. The decision is based on the evidence and testimony received as part of the application, during their site review of the property and through the public hearing process.

Additional Requirements

In addition to the criteria listed on this application, to qualify for a variance under FEMA regulations for property under the regulations of the Floodplain development standards contained in Sec. 70.213, the following criteria must be met:

- The variance may not cause any increase in the regional flood elevation
- Variance can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE (Regional Flood Elevation)
- Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risk to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of Village Code Sec. 70.213

Use Variance

No variance(s) that would allow the use of a property and/or structure in any zoning district that is not a stated principal use or accessory use in that particular district, or, that would result in the intensification or increase in density of building area or lots of such principal or accessory uses shall be granted by the Board unless it finds based on the evidence and testimony submitted as part of the public records that all the following facts and conditions exist:

- Unnecessary Hardship
- Unique Property Limitations
- Public Interest

Area Variance

No variance(s) that would remove or make less strict or severe any setback, frontage, height, building or yard location, or other area restrictions and/or requirements that apply to a property and/or structure in any zoning district shall be granted by the Board unless it finds based on the evidence and testimony submitted as part of the public record that all of the following facts and conditions exist:

- Unnecessary Hardship
- Unique Property Limitations
- Public Interest

The Board of Appeals may impose special conditions on any use or development being proposed in order to ensure that these criteria can and will continue to be met. Only the minimal amount of relief necessary to allow reasonable use or development of the property will be granted. Unless otherwise stipulated by a condition of approval, variances that permit some type of building or development will expire after twelve (12) months unless the building or development commences within 12 months and continues in reasonable manner toward completion.

Property Owner Information

Name: FORWARD INVESTORS, LLC JEFF BUSALACCHI (prospective buyer)

Company Name: FORWARD INVESTORS LLC B&B3 PROPERTIES, LLC

Mailing Address: 1247 STATE HWY 175 4000 HAWKS RIDGE DRIVE, HUBERTUS, WI 53033

City: HUBERTUS State: WI Zip: 53033

Phone Number: _____ Fax: _____ Email: _____

Property Information

Tax Parcel Number: V10_030500Z Size of Parcel (acres): 0.4 ACRES Zoning: B-3 (GENERAL BUSINESS)

Physical Address: 1913 HWY 175

City: RICHFIELD State: WI Zip: 53033

Request

What is the nature of your request for this variance? Example: to reduce the side yard setback from the required 30 feet to 25 feet in order to build an addition. To reduce the rear yard set back from 25 feet to 10 feet.

Section or Sections of Code

List the section or sections of the code that are related to your variance request. Section 701.199(G)(3)

Supplemental Information

As a part of this application, include a plat of survey as prepared by a registered land surveyor, which depicts the following information as it applies to the variance being requested:

- Engineering scale and north arrow
- Name of project and location/vicinity map
- Owner's and/or developer's name and mailing address
- Architect and/or engineer's name and mailing address
- Date of plan submittal
- Location of all property lines, existing and proposed buildings and structures including fences, berms and walls, setback lines and yard requirements, easements, access restrictions, designated and mapped wetlands and 100-year floodplains, signs, exterior lights
- Location and number of access driveways and intersections to public roads, paved areas, parking, loading and storage areas
- Locations and size of existing and proposed septic tanks and disposal fields, holding tanks, storm water facilities, erosion control features, and landscaping areas
- Location of proposed solid waste (refuse) storage area
- Location of pedestrian sidewalks and walkways
- Existing and proposed public right-of-way widths
- Existing and proposed street names
- Any other site or use information which will assist the Planning and Zoning Administrator in reviewing the application and making a determination of zoning compliance
- A table, chart or schedule of building floor area and total impervious surface coverage in acres, square feet, and ratio, landscaped surface/open space coverage in acres, square feet and ratio, land area in areas and square feet, minimum parking space requirements and spaces provided
- Color rendering or model (optional) of property to be developed, including all buildings, parking areas, drainage basins and facilities, landscaping, and exterior lighting (See Planning and Zoning Administrator for examples)
- Existing zoning and land uses on adjoining property
- Any other site or use information which will assist the Planning and Zoning Administrator in reviewing the application and making a determination of zoning compliance

Unnecessary Hardship

Describe why you believe strict compliance with the zoning regulation(s) from which the variance(s) is/are being sought would create a subject practical difficulty or be unreasonably burdensome to the property owner in terms of severely limiting or prohibiting the reasonable use of the property as intended under the zoning ordinance and when compared to surrounding properties. see attached

Unique Property Limitations

Describe why you believe the unnecessary hardship is due to unique or special conditions or limitations affecting the subject property and/or structure that are not typical or generally shared by other surrounding properties. see attached

Public Interest

Describe why the variance if granted would not be contrary to the public interest by creating or having the potential for creating an adverse impact on the public, health, safety, or welfare of adjoining and surrounding residents, properties or the community. see attached

Property Owner Affidavit

I certify that I am the Owner(s) of the property which is the subject of this application in the Village of Richfield, Washington County, Wisconsin, and that all the information attached to or provided in support of said application, including sketches, data, and any other documents and material, are honest and true to the best of my (our) knowledge.

I understand and acknowledge the responsibility for any and all fees charged or costs incurred by the Village of Richfield to carry out the processing and review of this application; I (we) further acknowledge and understand that I (we) will be required to start an escrow account to which all processing and review cost will be charged; I (we) further acknowledge that in the event that the initial fee is not sufficient to cover all the costs associated with processing and reviewing the application I (we) will be required to provide the Village of Richfield an additional deposit; I (we) further acknowledge that the balance of any remaining fees shall be refunded within a reasonable amount of time after this application has been processed or withdrawn.

I understand that a change to one of the future land use maps does not change the zoning designation of the property. However, a rezoning of the property must be consistent with the 10-year future land use map.

I certify that the members of the Board of Appeals, along with Village Staff and other officials, and members of the public may enter my property to view the same.

I understand that if the Board of Appeals grants the variance I must obtain all other approvals required under Chapter 70 of the Village Code.

I understand that I should not contact any members of the Board of Appeals regarding this matter and that doing so may require that member to abstain from voting on this matter.

I understand as Owner(s) of the property subject of this application understand that this application and all required forms and information must be completed and accurate, as determined by the Planning and Zoning Administrator for the Village of Richfield, before a meeting and/or public hearing (if required) can be scheduled.

 03/5/2015
Property Owner Signature (Prospective Purchaser) JEFF BUSALACCHI, B&B PROPERTIES, LLC Date

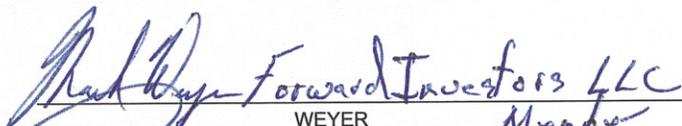
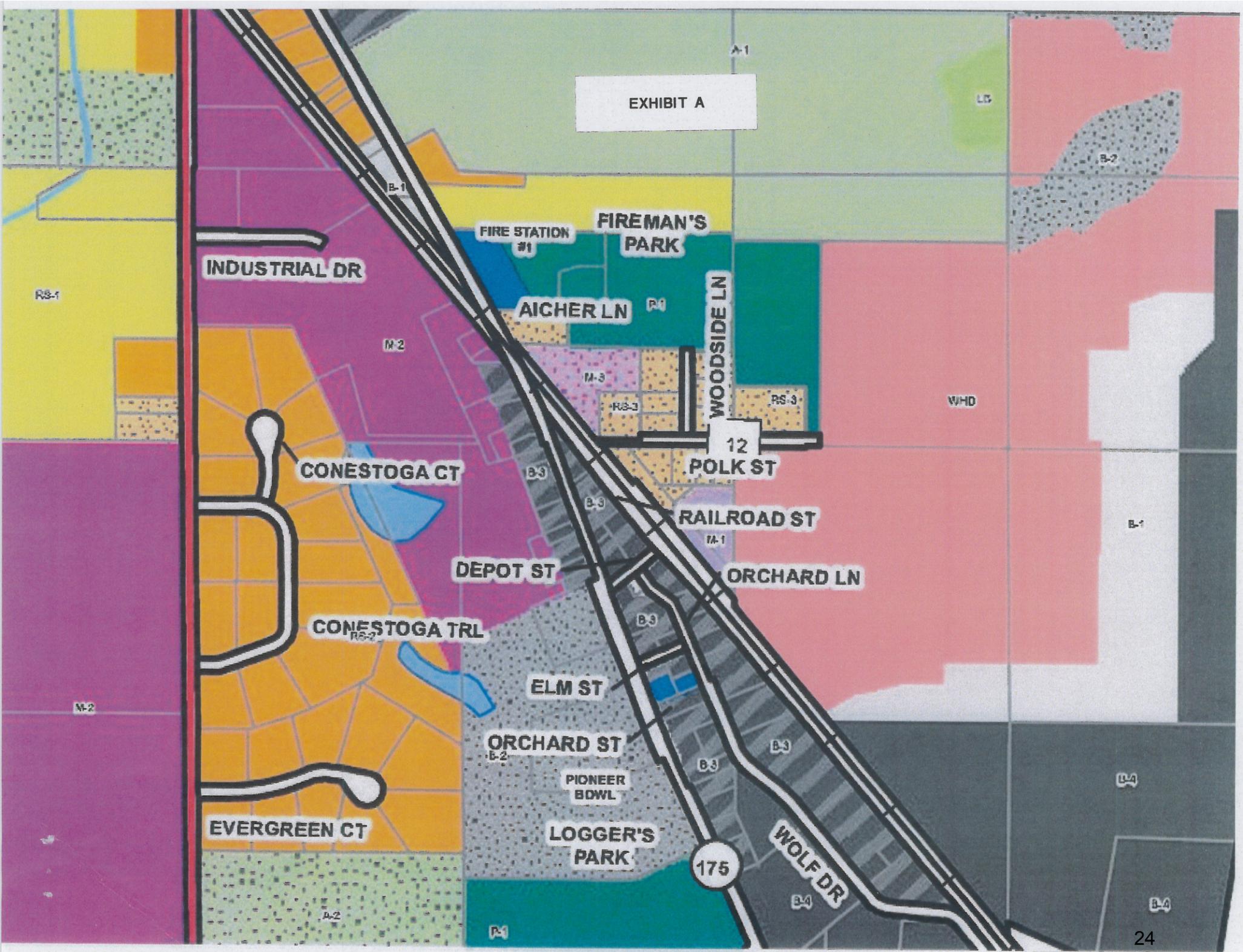
 3/9/15
WEYER DATE
 3/9/15
MEMBER

EXHIBIT A



DHEIN LAND SURVEYING LLC

PHILLIP P. DHEIN R.L.S. 1581
 N.136 W.21104 BONNIVELL RD.
 RICHFIELD, WISCONSIN 53076
 PHONE 262-628-2555
 FAX 262-628-2714

NOTE ! SEE SHEET 2 OF 2 FOR LEGAL'S

PLAT OF SURVEY

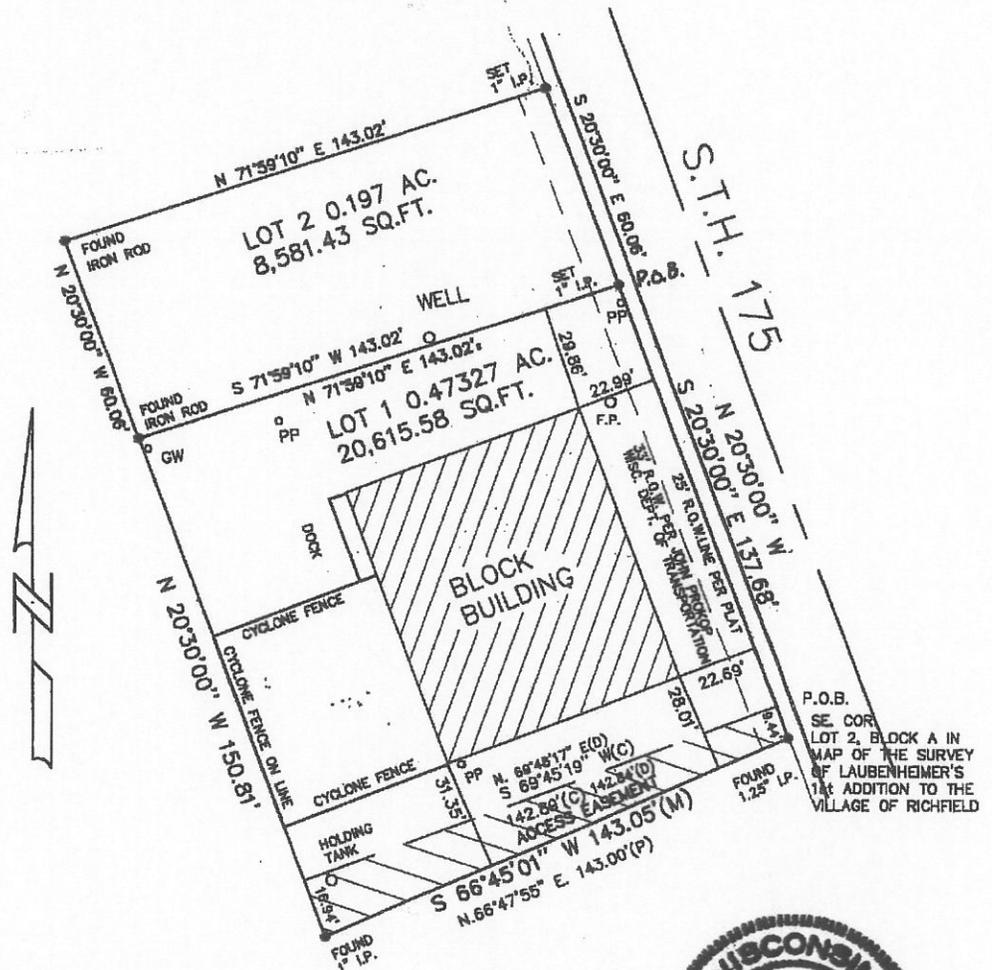
SHEET 1 OF 2

LEGEND!

ALL PROPERTY CORNERS ARE AS NOTED BELOW ON MAP
 (I.P.) = IRON PIPE (D) = DEED (M) = MEASURED (C) = CALCULATED
 (P) = PLATTED PP = POWERPOLE F.P. = FLAG POLE GW GUY WIRE
 P.O.B. = POINT OF BEGINNING



Scale 1" = 40'



"I have surveyed the above described property, and the above map is a true representation thereof and shows the size and location of the property, its exterior boundaries, the location and dimensions of all structures thereon, fences, apparent encroachments, roadways and visible encroachments.

This survey is made for the exclusive use of the present owners of the property; also those who purchase, mortgage, or guarantee the title thereto, within one year from the date hereof.

Prepared for: **FORWARD INVESTORS, LLC**

at Germantown, Wisconsin this 5th Day of MAY 20 10

Plat No. A2010015

Signed: *Phillip P. Dhein*
 Registered Land Surveyor



this is an original print and seal is imprinted in red

DHEIN LAND SURVEYING LLC

PHILIP P. DHEIN R.L.S. 1581
 N.136 W.21104 BONNIWELL RD.
 RICHFIELD, WISCONSIN 53078
 PHONE 262-828-2555
 FAX 262-828-2714

NOTE ! SEE SHEET 2 OF 2 FOR LEGAL'S

PLAT OF SURVEY

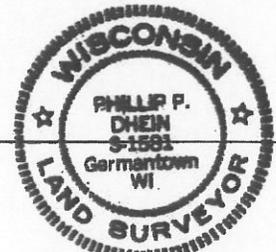
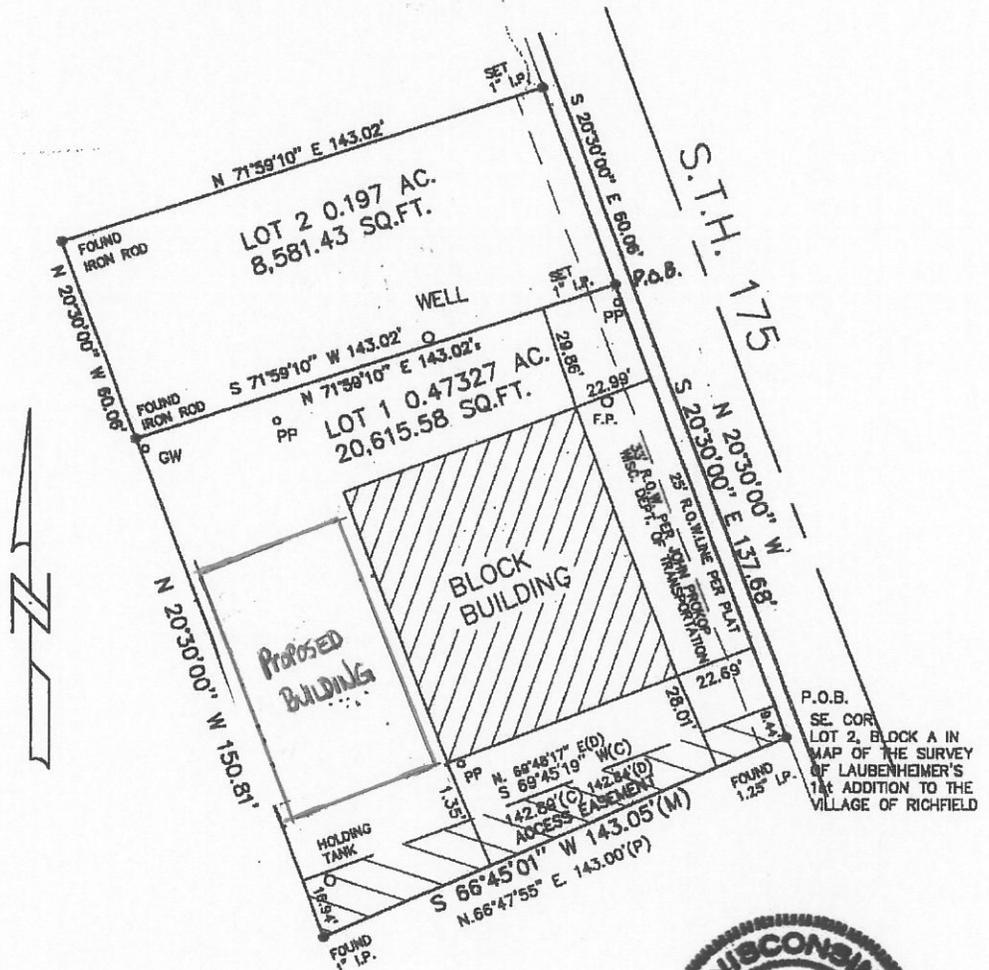
SHEET 1 OF 2

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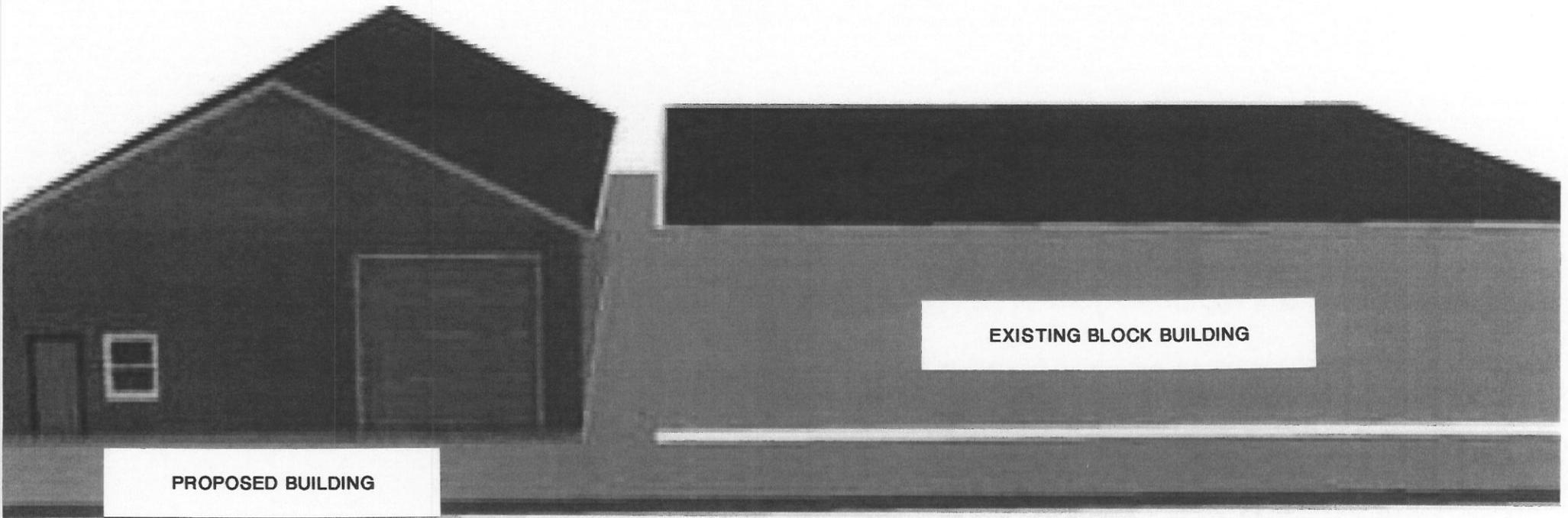
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Prepared for: FORWARD INVESTORS, LLC
 at Germantown, Wisconsin this 5th Day of MAY 20 10

Plot No. A2010015
 Signed: Phillip P. Dhein
 Registered Land Surveyor

this is an original print out
 seal is imprinted in red

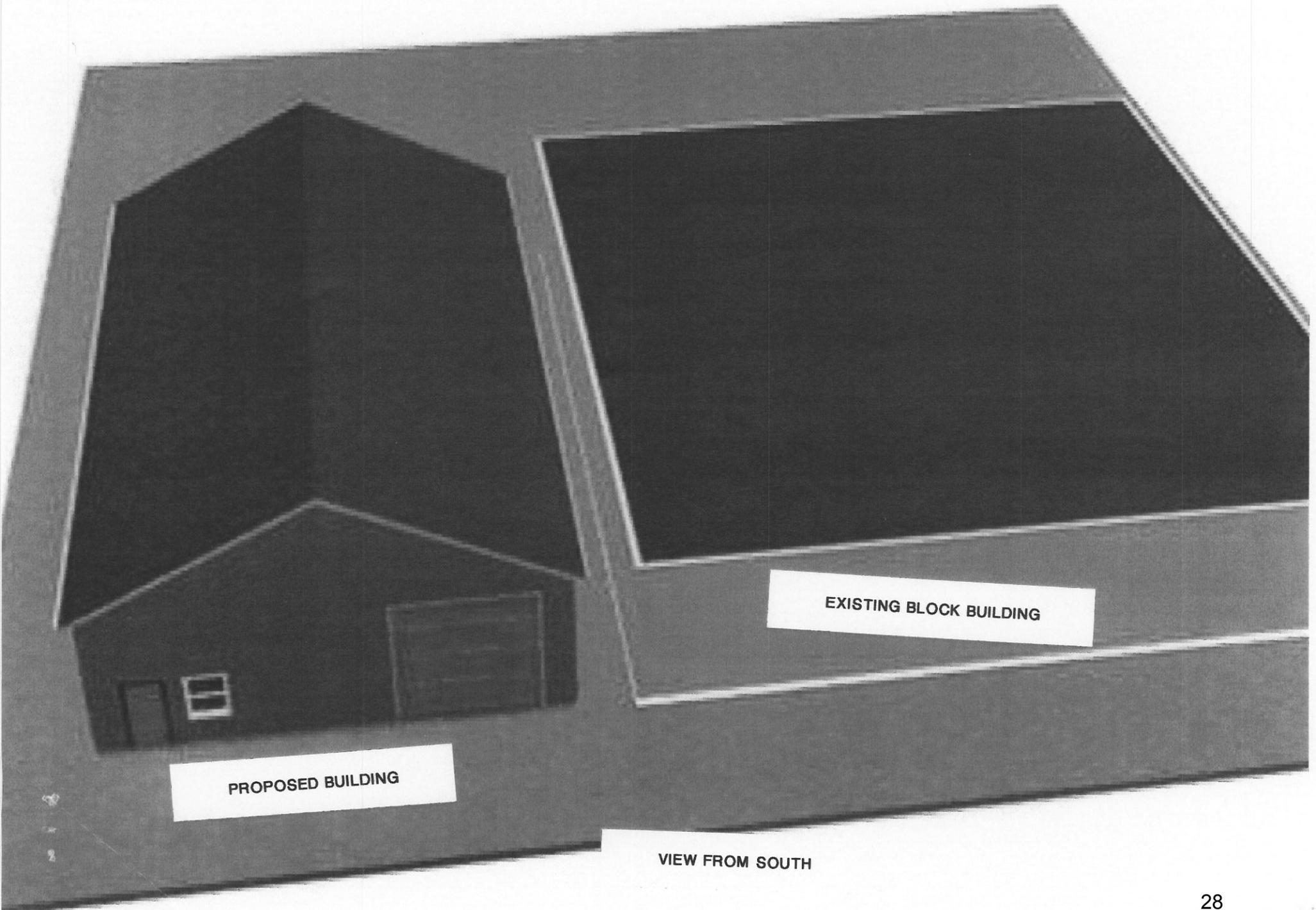
EXHIBIT D



PROPOSED BUILDING

EXISTING BLOCK BUILDING

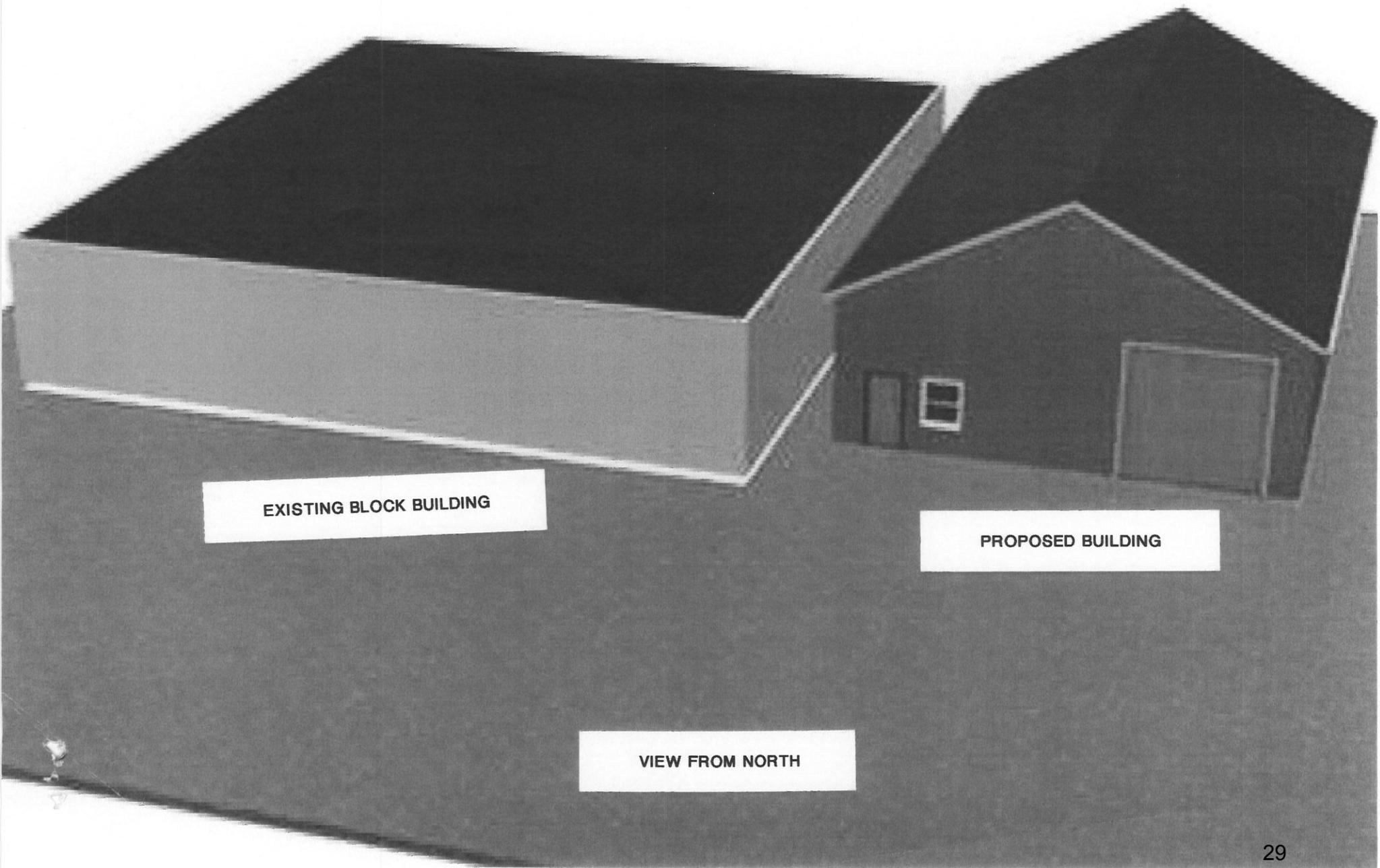
VIEW FROM SOUTH



PROPOSED BUILDING

EXISTING BLOCK BUILDING

VIEW FROM SOUTH



EXISTING BLOCK BUILDING

PROPOSED BUILDING

VIEW FROM NORTH

