



Memorandum

To: Common Council
From: Greg Keil, CDD *CK*
Date: January 30, 2013
RE: Subdivision Ordinance Variance Request - Steve Andryszczyk

Please see the attached letter from Mr. Andryszczyk stating the basis for the request. This matter was discussed quite extensively by the Plan Commission prior to it making a favorable recommendation.

Section 14-1-18 of the Code of Ordinances (also attached) provides the procedure for granting a variance from the subdivision ordinance. I did not properly advise the Plan Commission of these requirements, and the motion that the Plan Commission adopted is not reflective of what the ordinance requires.

I am now requesting that the Common Council approve a variance from Subdivision Ordinance Section 14-1-8(v)(3) regarding the provision of a temporary cul de sac and defer the requirements of 14.1-8(c) relating to lot frontage, and 14-1-13(d) regarding street improvements until such time that undeveloped land to the west of the subject property is developed or other such time as the Common Council determines that the installation of street improvements are warranted. Per Section 14-1-18((b) the variances should be predicated upon the following findings:

1. That granting the variance will not be detrimental to the public safety, health and welfare or injurious to other property or improvements in the neighborhood in which the property is located.
2. That conditions upon which the request for the variance is based are unique to the property for which the variation is sought and are not generally applicable to other property.
3. That because of the particular physical surroundings, shape or topographical conditions of the property, a particular hardship to the owner would result if the strict letter of the regulations were followed out.

Information in support of these findings is as follows:

1. Correspondence with Assistant Fire Chief /Fire Marshal Vernon Green indicated that NMFR does not have an issue with providing service to the proposed home. DPW Radtke has indicated that refuse, recycling and snow removal services would not be problematic.
2. The original parcel divided by CSM 3095 was approximately 773 feet in depth extending southward from Manitowoc Road. Although the rear of the parcel could have been developed as a single lot accessed from Birling Court, the Plan Commission and Common Council required that right of way be dedicated to enable the future extension of Birling Court to serve future development areas to the west. The long narrow shape of the lot bisected by street right of way and adjoining unimproved land to the west is a unique condition.
3. The installation of a public street for a very short segment (150) feet, results in a higher than normal unit costs for such an installation. Taken together, these conditions represent a hardship.

If the Common Council is favorable to granting the variances, I recommend that the aforementioned findings be included in the motion. Consideration should also be given to the Plan Commission's recommendation that the street and utility improvements be installed prior to the development of Lot 2 of CSM 3095.

The owner and the prospective buyer are aware that the city may extend the street and utilities in the future, and have acknowledged that the costs thereof will be assessed to the adjoining lots.

To: Menasha Planning Commission and Common Council

A Brief History: My name is Steven V Andrysczyk. I purchased W6951 Manitowoc road in approximately 2007. I had the property annexed into the city of Menasha to put sewer and water in. The address is now known as 2889 Manitowoc Rd. This parcel was 1 piece and approximately 1.5 acres. In 2009 I requested to subdivide the property with the city of Menasha maintaining a throughway for Birling Court. The property was divided into 3 pieces: Lot 1 with the home, lot 2 and lot 3. In the subsequent years the property values dropped and I was unable to sell the lots. The cost of putting the road in made the sale difficult if not impossible. I now have a buyer who will at his expense put a road in. He desires not to have to do this until more of the road will go through in future years. He is buying lot 1 and 2 – putting only 1 home in until the road goes through.

I am requesting a variance from the lot frontage, street improvement and temporary cul de sac requirements of the City of Menasha subdivision Ordinance to enable the sale of and development of parcels adjacent to Birling Court prior to the installation of the public street and utilities in the lot frontage abutting the street right of way. The prospective purchaser has received approval from the Waverly Sanitary district to extend laterals to the existing sewer and water mains to obtain those services. He is planning on constructing a paved driveway from the residence to the public street, and is aware that there will be future charges/assessments at such time that the public street is extended.

I humbly ask for your approval on this variance as this will benefit the city by having a home constructed – higher tax base and acknowledgement of the road extension to be added later.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. V. Andrysczyk', is written over a large, faint circular stamp. To the right of the signature, the date '1/15/14' is handwritten in black ink.

Steven V Andrysczyk

NOV 20 2007

Division of Registers
CITY OF MILWAUKEE

CERTIFIED SURVEY MAP NO. 3095

ALL OF LOT 1 OF CERTIFIED SURVEY MAP NO. 2928, LOCATED IN THE
NORTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 8, TOWNSHIP 20
NORTH, RANGE 18 EAST, TOWN OF HARRISON, CALUMET COUNTY,
WISCONSIN

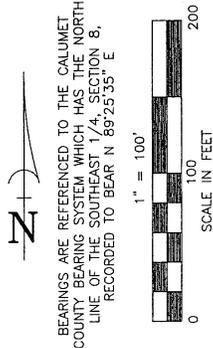
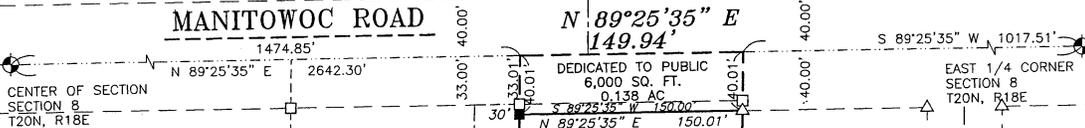
Survey for: Steve Andrysczyk
Mortgage Corp. AAA
717 N. McCarthy Road
Appleton, WI 54913

SECOND ADDITION TO
CEDAR RIDGE ESTATES

C.S.M. NO. 2305

MCKAYLA
DRIVE

MANITOWOC ROAD



LEGEND

- 1" O.D. IRON PIPE SET, 18" LONG, WEIGHING 1.150 LBS. PER LIN. FOOT
- 3/4" O.D. REBAR FOUND
- 1" O.D. IRON PIPE FOUND
- 1-1/4" O.D. REBAR FOUND
- GOVERNMENT CORNER
- RECORDED AS

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LOT 2

LOT 1
#2928

LOT 2
7-810-50

LOT 3
7-810-51

LOT 48

LOT 47

LOT 46

LOT 45

LOT 44

LOT 43

LOT 42

LOT 41

LOT 40

SILVER

BIRLING DRIVE

BIRCH

FLAT

BIRLING COURT

UNPLATTED LANDS
N 85°54'42" W

Martenson & Eisele, Inc.

1377 Midway Road
Menasha, WI 54952
www.martenson-eisele.com
info@martenson-eisele.com
920.731.0381 1.800.236.0381

Planning
Environmental
Surveying
Engineering
Architecture

PROJECT NO. 264-329

FILE 264329csm.dwg SHEET 1 OF 3

THIS INSTRUMENT WAS DRAFTED BY: LMB



DR.

SILVER

BIRLING

BIRLING

CT.

HOUSE

DRIVE WAY

SILVER
BIRCH
CT.

- 14-1-8 (v) (3) Temporary Dead-ends or Cul-de-sacs. All temporary dead-ends shall have a maximum length of eight hundred (800) feet and a temporary cul-de-sac shall have a minimum right-of-way radius of sixty (60) feet and a minimum inside curb radius of forty (40) feet.
- 14-1-8 (c) **SUFFICIENT FRONTAGE.** All lots shall have sufficient frontage on a public street to allow access by emergency and service motor vehicles.
- 14-1-13 (d) **STREET, ALLEY AND SIDEWALK IMPROVEMENTS.** The developer shall construct streets and sidewalks as outlined on the approved plans based on the requirements of this Code of Ordinances:
- (1) Grading. With the submittal of the final plat, the subdivider shall furnish drawings which indicate the existing and proposed grades of streets and alleys shown on the plat. Proposed grades will be reviewed by the City Engineer for conformance with City standards and good engineering practice. Street grades require the approval of the Common Council after receipt of the City Engineer's recommendations. After approval of the street grades, the subdivider shall grade the full width of the right-of-way of the streets and alleys proposed to be dedicated, including the vision clearance triangle on corner lots. In cases where an existing street right-of-way is make a part of the plat or abuts the plat, the subdivider shall grade that portion of the right-of-way between the existing pavement and the property line. The bed for the roadways in the street rights-of-way shall be graded to subgrade elevation. The City Engineer shall approve all grading within rights-of-way and said grading shall extend for a sufficient distance beyond the right-of-way to insure that the established grade will be preserved. Where electric and other communications or utilities facilities are to be installed underground, the utility easements shall be graded to within six (6) inches of the final grade by the subdivider, prior to the installation of such facilities; earth fill piles or mounds of dirt or construction materials shall not be stored on such easement areas.
 - (2) Street and Sidewalk Construction.
 - a. After sanitary sewer, storm sewer and water utilities have been installed, the subdivider shall construct as part of the subdivision, streets, curbs and gutters and sidewalks including those adjacent to platted lots in existing street rights-of-way abutting the plat. The subdivider shall surface roadways to the widths prescribed by the Common Council on recommendation of the Plan Commission and the City Engineer. Construction shall be to City standard specifications for street improvements.
 - b. The Common Council shall have the option of not requiring the construction of sidewalks within street rights-of-way in cases where it determines, after consultation with the Plan Commission and the City Engineer, that sidewalks are not necessary because of low density land use and low pedestrian volumes or for access to schools and bus routes or for continuity of existing sidewalk or bicycle route systems or because of cul-de-sac or loop street pattern. Consideration shall also be given to the pattern of development of adjoining lands and to the possibility of damage to trees.
 - c. Dedicated walkways shall be improved by the subdivider to a grade and width approved by the City Engineer and with surfacing as required by the Common Council based on the location and the amount and character of use. The subdivider shall submit standard drawings indicating the existing and proposed grades.
 - (3) Curb and Gutter. After the installation of all utility and storm water drainage improvements, the subdivider shall construct concrete curbs and gutters in accordance with plans and standard specifications approved by the Common Council or its designee. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts.

SEC. 14-1-18 VARIATIONS AND EXCEPTIONS.

- (a) Where, in the judgment of the Common Council, on the recommendation of the Plan Commission, it would be inappropriate to apply literally the provisions of this Chapter because of the proposed subdivision being located outside of the corporate limits or because exceptional or undue hardship would result, the Council may waive or modify any requirements to the extent deemed just and proper. Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Plan Commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.
- (b) The Plan Commission shall not recommend nor shall the Common Council grant variations or exceptions to the regulations of this Chapter unless it shall make findings based upon the evidence presented to it in each specific case that:
 - (1) The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
 - (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property;
 - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
- (c) Any recommendations by the Plan Commission shall be so endorsed by the Secretary and transmitted to the Common Council. The Common Council, if it approves, shall do so by motion or resolution and instruct the City Clerk to notify the Plan Commission and the owner.
- (d) Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Chapter or the desirable general development of the community in accordance with the Comprehensive Plan or Zoning Code of the City. A majority vote of the entire membership of the Common Council shall be required to grant any modification of this Chapter, and the reasons shall be entered in the minutes of the Council.
- (e) The Common Council may waive the placing of monuments, required under Section 236.15(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the subdivider execute a surety bond to insure the placing of such monuments within the time required.