

**CITY OF EDGERTON  
CITY HALL  
12 ALBION STREET**

**ZONING BOARD OF APPEALS**

Monday, September 26, 2022 AT 6:00 P.M.

**NOTICE:** The meeting noticed above will also be live streamed on a Zoom platform: To view the meeting, please select the link to the meeting listed on the **calendar events** on the City website's home page at [www.cityofedgerton.com](http://www.cityofedgerton.com). Due to occasional technical difficulties, citizen participation via Zoom may not be possible.

1. Call to Order; Roll Call.
2. Confirmation of Appropriate Meeting Notice Posted Friday, September 23, 2022.
3. Public Hearing:
  - a. Hear comments regarding a request by Lisa Weinstein for a variance to Chapter 22.711(3)(b)8 for the property located at 512 Blaine Street to reduce the pavement setback from 3 feet to 0 feet to allow the construction of a driveway (Parcel 6-26-506)
  - b. Close the public hearing.
4. Consider request by Lisa Weinstein for a variance to Chapter 22.711(3)(b)8 for the property located at 512 Blaine Street to reduce the pavement setback from 3 feet to 0 feet to allow the construction of a driveway (Parcel 6-26-506)
5. Consider approval of August 1, 2022 Zoning Board of Appeals meeting minutes.
6. Adjourn

cc: All Board Members  
All Council Members  
City Attorney  
Newspapers  
City Administrator  
Department Heads

**NOTICE:** If a person with a disability requires that the meeting be accessible or that materials at the meeting be in an accessible format, call the City Administrator's office at least 6 hours prior to the meeting to request adequate accommodations. Telephone: 884-3341

**TO:** Edgerton Board of Appeals

**FROM:** Staff

**MEETING DATE:** September 26, 2022

**GENERAL DESCRIPTION**

**Description of Request:** Petition for a variance to Chapter 22.711(3)(b)8 to reduce the paved surface setback from 3 feet to 0 feet to allow a driveway closer to the lot line than allowed by ordinance.

**Address:** 512 Blaine St

**Applicant:** Lisa Weinstein

**Current Zoning/Land Use:** R-2 Residential / duplex

**STAFF REVIEW COMMENTS**

The planning staff has reviewed the petition in accordance with the Edgerton Zoning Ordinance and has the following comments:

1. The petitioner seeks a variance to allow the construction of a driveway closer to the lot line at 512 Blaine Street than allowed by the ordinance. Chapter 22.711(3)(b)8 requires paved surfaces be 3 feet from a side lot line and 5 feet at the street property line (sidewalk).
2. The property has two existing driveways. The applicant seeks a variance for the driveway on the north side of the property. The City allows unpaved, existing driveways that do not meet the setback requirements to be paved in their current location without a variance. The existing gravel driveway on the north side of the property extends from the street to approximately the front of the house and was installed up to the lot line. The petitioner would be allowed to pave this portion of the driveway without a variance but the petitioner wishes to extend the driveway to near the rear of the house. The ordinance requires a 3-foot setback and the petitioner seeks a zero-foot setback for the entire length of the driveway.

Date Draft Submitted _____
Date Application Submitted _____
Fee Paid _____

## Application for Variance

Owner (must be the applicant) Lisa Weinstein

Parcel Address 512 Blaine Street Parcel Number 6-26-506

Owner Address 320 E. Samuelson Drive Daytime Phone 312-523-7188

Present Use of the Property 2 unit residential building

Zoning Classification R2

The following items must be submitted with each application. Additional site plan information as described in Section 22.213(3) may be required by the Zoning Administrator (Ordinance section referenced in this application are available upon request):

- (1) **Map of the property showing the following:**
- Entire property
  - All lot dimensions
  - Existing structures with dimensions to property lines (buildings, fences, walls etc)
  - Proposed structures with written dimensions to property lines
  - Existing paved surfaces (driveways, walks, decks, etc)
  - Proposed paved surfaces with dimensions to property lines
  - Written dimensions to buildings on adjoining properties if setback variance is requested
  - Zoning of adjacent parcels
  - Street(s) which are adjacent to the parcel
  - Graphic scale and north arrow
  - Changes in land use intensity due to the variance (additional dwelling units, more customers, more parking, outside lighting, outside storage, etc)

- (2) **Written description of proposed variance answering the following questions:**  
 City of Edgerton Ordinance Section # 22.711(3)(b) cannot be entirely satisfied because:

- (1) ~~HARDSHIP: Chapter 22.304(b)(4) requires 4 off street parking spaces. Also, it would be unfair to the new Blaine tenants to fail to provide similar easy access parking to both of them. A 7 1/2 ft. concrete driveway cannot be easily driven onto, if at all.~~
- (2) ~~The City of Edgerton issued a Building Permit after reviewing architectural drawings and a survey which included a driveway on the west side of the building extending to the edge of the property line.~~

In lieu of complying with the ordinance, the following alternative is proposed (please describe the proposal in detail):

Reduce the setback to 2 1/2 feet.

This is the second building I have remodeled in Edgerton (202 W. Rollin) and others on the block were more comfortable about putting money into their homes after seeing me do it.

My product is condo quality construction at affordable rent. Very few small cities can boast about having such fine housing.

- (3) **Written justification of the requested variance** with reasons why the Applicant believes the proposed variance is appropriate. Before the Zoning Board of Appeals can grant a variance, they must find that the following criteria have been satisfied. Describe how your request meets the following criteria: (section 22.211(4)(c))

What exceptional or extraordinary circumstances or special factors are present which apply only to the subject property? The response to this question shall clearly indicate how the subject property contains factors that are not present on other properties in the same zoning district.

~~UNIFORMITY: Four other properties across the street have their concrete driveways up to the property line, (507, 509, 513 and 601 Blaine Street).~~

~~HARDSHIP: Blaine has parking on only one side of the street. Easy access off street parking is a necessity.~~

~~HISTORY: There has always been two like kind driveways at this property.~~

~~APPROVED PERMIT: The City issued a Permit giving the green light to proceed with the drawings submitted.~~

~~BENEFIT: This building has been admired by many people in the neighborhood and it will increase the value of the street.~~

- The hardship or difficulty shall be peculiar to the subject property and different from that of other properties and not one that affects all properties similarly. Such a hardship or difficulty shall have arisen because of the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of the current, applicable zoning regulations, or will not accommodate a structure of reasonable design for a permitted use if all area, yard, green space, and setback requirements are observed;
- Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
- Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting-off existing access to a public right-of-way or deed restrictions imposed by the owner's predecessor in title are considered to be such self-imposed hardships;
- Violations by, or variances granted to, neighboring properties shall not justify a variance;
- The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance. (For example, if a lot were unbuildable because of topography in the absence of any or all setback requirements.)

In what manner do the factors identified in 1., above, prohibit the development of the subject property in a manner similar to that of other properties under the same zoning district? The

response to this question shall clearly indicate how the requested variance is essential to make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.

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Leaving one driveway of the building with the existing crushed stone would be a blemish on the neighborhood.

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It would detract from the fact that a building of high quality was constructed on Blaine Street. It would look like either the owner was cutting corners or there was a problem with the investor and the City. That does not look good.

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Would the granting of the proposed variance be of substantial detriment to adjacent properties? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on adjacent properties.

No. The adjacent property owner's lot line is separated by mine with crushed stone measured by the surveyor at .6 ft. in the back of the lot and 2.9 ft. towards the front of the lot. The driveway is pitched downward towards the street. The crushed stone separating the two properties can absorb rain water and also shows a line of demarcation.

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Would the granting of the proposed variance as depicted on the required site plan, result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of this Chapter, the Master Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide growth and development? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.

Granting the Variance would have a beneficial impact on the neighborhood by demonstrating that investors are willing to put money into this City. The value of other properties on the block will increase. It will also encourage other investors to come to Edgerton as well as provide confidence to current owners on the block to consider doing improvements to their home.

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Have the factors causing the variance request been created by the act of the applicant or previous property owner or their agent (for example: previous development decisions such as building placement, floor plan, or orientation, lotting pattern, or grading) after the effective date of this Chapter. The response to this question shall clearly indicate that such factors existed prior to the effective date of this Chapter and were not created by action of the

Applicant, a previous property owner, or their agent.

The previous owners always had a driveway on the west side of the building extending to the edge of the property. Driveways have always existed on both sides of the building. The City has built concrete entrances to these driveways. This is nothing new. It is just being done up nicer than it has been before.

Does the proposed variance involve the regulations of Subsection 22.304 or the district use regulations in each zoning district of Section 22.700? The response to this question shall clearly indicate that the requested variance does not involve the provisions of this Subsection.

The Variance complies with the land usage of Subsection 22,304 (a two unit residential structure) and with the R2 zoning of Subsection 22.711.

Verification by applicant: I, Lisa Weinstein, owner for which relief is sought, certify that the application and the above information is truthful and accurate to the best of my ability.

Applicant Signature *Lisa Weinstein* Date 7-20-22  
Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

Consideration for Approval: Granted _____ Denied _____ Date _____ Chairman, City of Edgerton Zoning Board of Appeals
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**LISA WEINSTEIN**

320 E. Samuelsen Drive  
Edgerton, WI 53534

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Email: [lisalu13@aol.com](mailto:lisalu13@aol.com)

RE: Variance to Chapter 22.711(3)(b)  
to waive the 3 ft. side setback at 512 Blaine St.

I filed an application for a Variance. A hearing was held on September 15, 2021. I was not present, and the application was denied.

- (1) The City previously granted me a **Building Permit** to renovate the Blaine Street Property. The Permit **approved drawings and a Survey that included a 10' 8" driveway on the North side** of the building up to the edge of the property line.

I then asked the city if I could widen the entrance going into the driveways of the building so that a car would not drive on the grass. I even had Alliant Energy move its utility pole on the east side so that people would not be backing into it. Howard Moser came out and said that he wasn't sure and asked if I received a Variance for the 3 ft. side setback even with the Permit. So, I approached the city again and just to play it safe, I was advised to file an application with the Zoning Board of Appeals. (ZBA)

- (2) The 500 and 600 blocks of Blaine Street only allow parking on one side of the street. Chapter 22.304(b)(4) requires that there be parking for two vehicles per unit. **There has always been parking for four vehicles**, two on the gravel driveway on each side of the building.
- (3) The remodeling of this two-flat is **an improvement to the neighborhood** and it has been greeted warmly by all the neighbors except one. The building looks unfinished with a concrete driveway and a gravel driveway on one side. My architect contacted the city about setbacks and received a waiver for the front porch. He submitted the Application for Building Permit and there did not appear to be any obstacles with following through with the architectural drawings. Had the Permit not been granted with a driveway extending to the property's edge, I would never have pursued the project.
- (4) There are **4 other properties on this block that have concrete driveways extending to their boundary lines**. 507 and 509 Blaine Street abut each other. So do 513 and 601 Blaine Street. They are across

the street. I asked both of my neighbors if they were interested in doing the same thing and both declined.

- (5) There has been a **“change in the factors found valid”** by the ZBA in arriving at their decision. Some factors were inaccurate and other information was withheld.

The ZBA minutes state that “Rick Peters testified that the Application for Variance would result in the placement of concrete on his property and that he installed his concrete driveway approximately 13 years ago. ” That is not accurate. *The building permit issued clearly shows a driveway being built up to the property line and not on his property.*

Furthermore, this neighbor had a fence on my property and was most unhappy about having to remove it. He wants to replace the fence, but he built his concrete driveway in the back to .6 ft. (about 8 ") from his boundary line. Whether he can rebuild and easily dig holes for the fence posts without damaging his driveway is uncertain. *Since the neighbor infringed upon his 3 ft. side setback, can he come in to complain with unclean hands? Did he ever get a Variance for his 3 ft. side setback?*

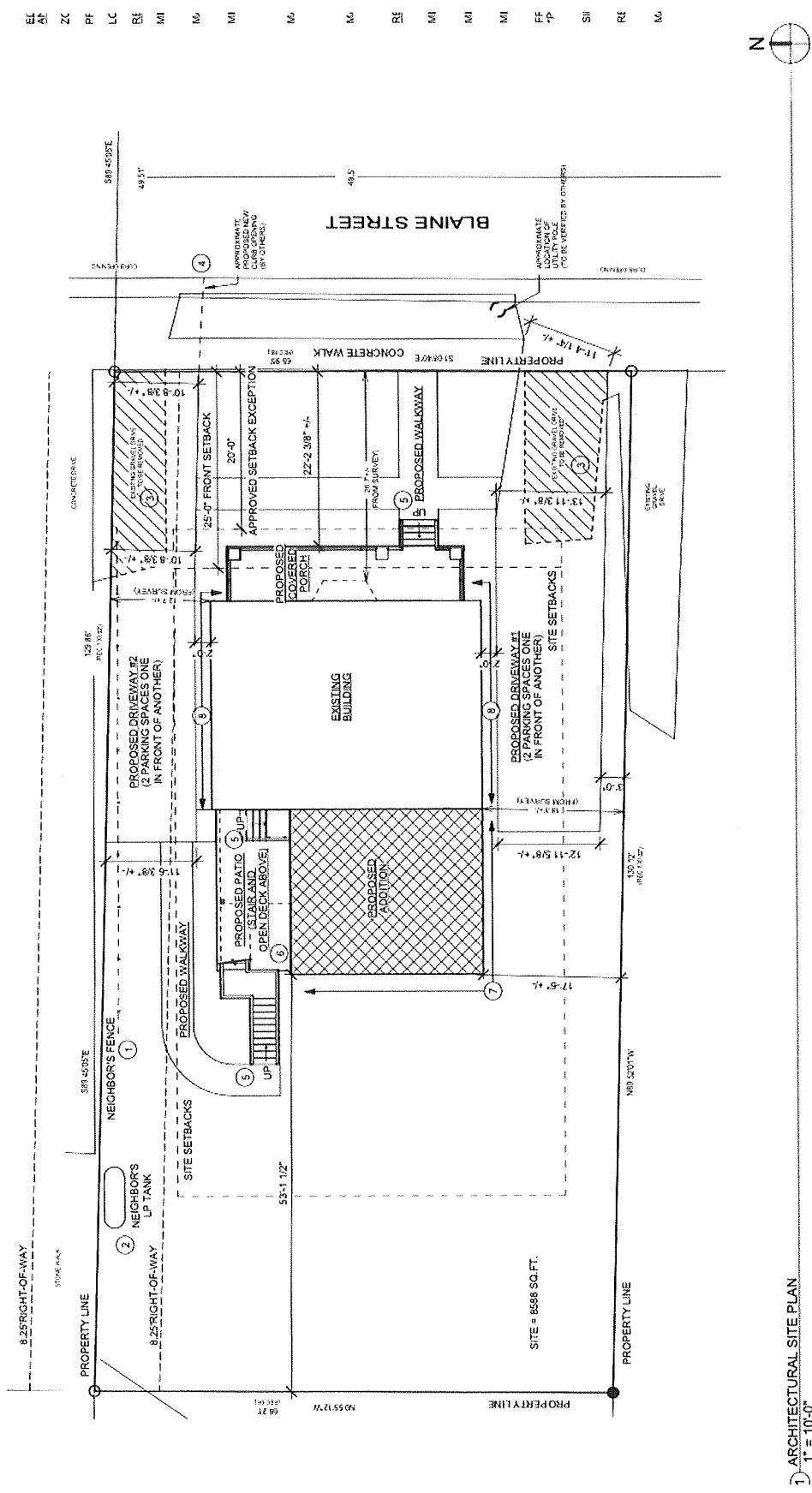
Finally, this neighbor expressed concern about water draining onto his property from mine. The survey attached to the permit application marks off the space between the two properties measuring .6 ft. at the back and 2.9 ft. towards the street in front of the property. *The neighbor failed to inform the ZBA that there is currently crushed stone between the two property lines which makes it difficult for water to travel sideways when both driveways are pitched towards the street.*

The Staff report used to arrive at the DENIAL decision noted that, *“though the request would provide additional offstreet parking which is required by the code, the existing driveways could be expanded without a Variance or with a lesser Variance.”* **Does that mean I can build a concrete driveway to the edge of my property line, pursuant to the City’s permit, without a Variance?**

I regret not being present at the initial hearing. However, my remodeling project is a benefit to the neighborhood. 3 years ago, I tried to revive the life of a dying structure at 202 W. Rollin and it did encourage other people to put money into their homes. Furthermore, is it fair to the new Blaine tenants to fail to provide the same quality of parking to both of them? Moreover, leaving the project incomplete with a crushed stone driveway may discourage future investors who want to remodel old buildings in Edgerton. I think the city and the block will continue to benefit by granting this Variance.

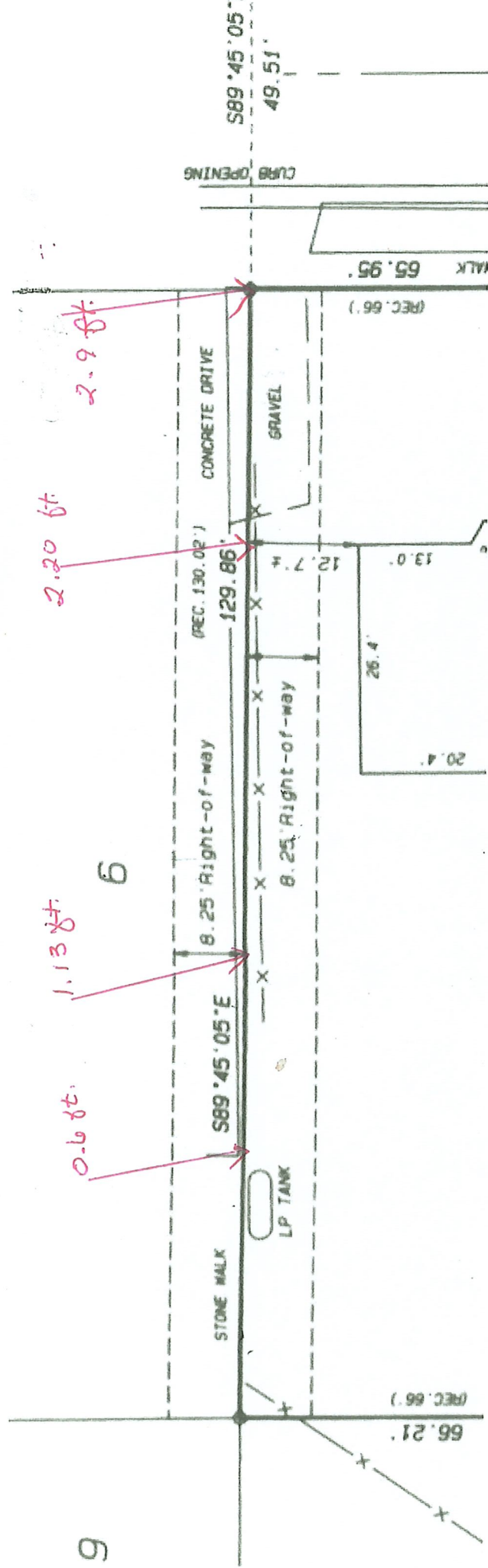
The multitude of people who came up to me and said, “Thank you for putting money into this block,” will also be pleased with your granting the Variance.





1 ARCHITECTURAL SITE PLAN  
1" = 10'-0"

EL  
AL  
ZC  
PF  
LC  
BE  
MI  
M  
MI  
M  
M  
RE  
RE  
M



2.20 ft

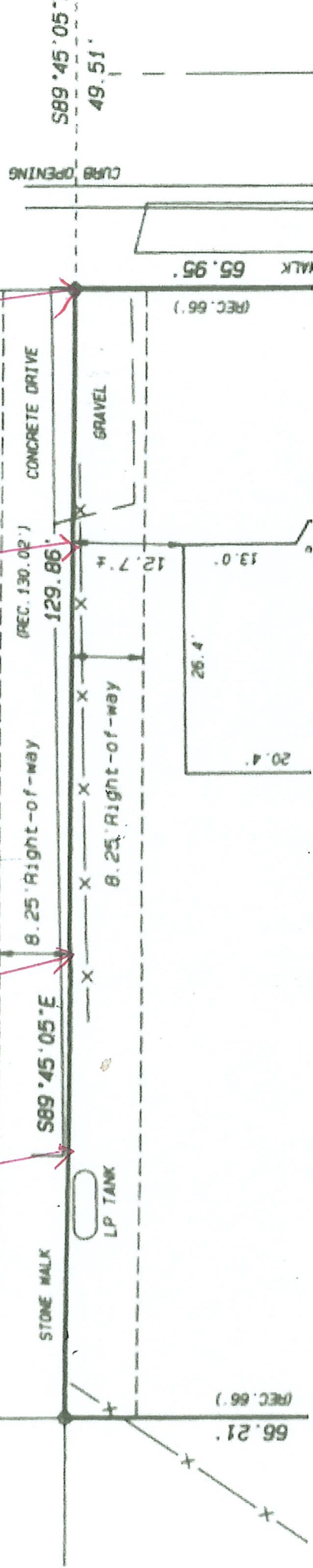
2.9 ft

1.13 ft

0.6 ft

6

9



CURB OPENING

CONCRETE DRIVE

GRAVEL

REC. 130.02'

129.86'

8.25' Right-of-way

8.25' Right-of-way

S89°45'05"E

STONE WALK

LP TANK

REC. 66'

66.21'

WALK 65.95'

(REC. 66')

S89°45'05"  
49.51'

13.0'

26.4'

20.4'

## *The Way It Was* ...

Many, many years ago, there was a front porch with a driveway on each side of the building.



This is a Street View by Google Maps on August 2013:



The previous owner removed the decaying front porch.



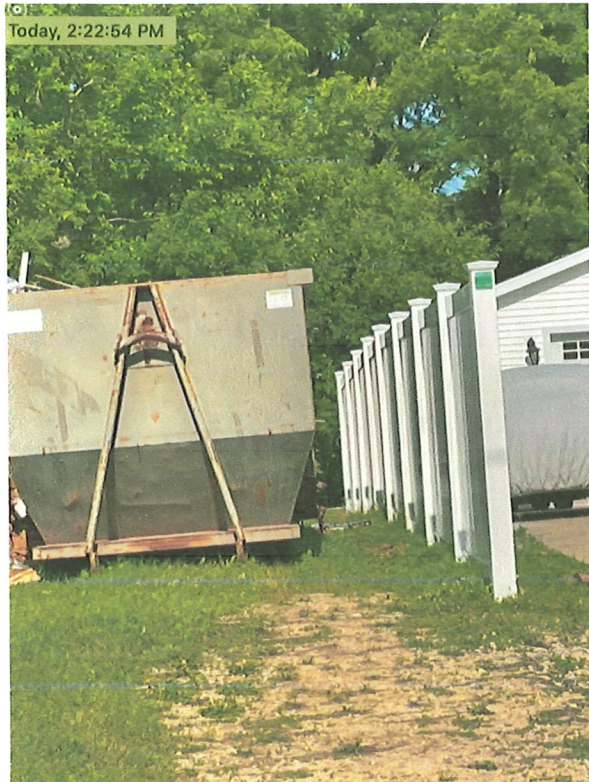
The back porch was **not** removed by the previous owner and was unsafe.



The East driveway had cars backing into the utility pole. Alliant Energy agreed to move it 3 ft.



**The neighbor's fence was on my property according to the survey.**



**If the neighbor wishes to reinstall a fence, he still has 2.9 feet separating our properties in the front by the sidewalk.**

**The PATIO here ends where the 7 -1/2 ft. driveway would end.**



***Today, a car could not get onto a 7-1/2 ft. driveway.***

***Notice below where a shorter driveway would end? 5' 10" before neighbor's driveway by the sidewalk***



**Other houses have their driveways going to edge of their property:  
507 and 509 Blaine Street.**



**513 and 601 Blaine Street.**



Appearance today with unfinished driveway.



*Notice that the driveway is pitched downward towards the street for water flow.*





2' 9" →

← 3' 3" →

← 7' 7" →

**CITY OF EDGERTON  
ZONING BOARD OF APPEALS MINUTES**

August 1, 2022

A regular meeting of the Zoning Board of Appeals (“ZBA”) was called to order at 5:30 p.m. at the Edgerton City Hall, 12 Albion Street, Edgerton, Rock County, Wisconsin on August 1, 2022.

Present and responding to the roll call in person were Chairperson Dave Maynard, James Kapellen, Jim Long, Veronica Ellingworth, Russel Jorstad, Mark Wellnitz (alternate) and Dave Esau (alternate). Alternates participated in discussions but did not participate in votes.

Also present in person was City Administrator Ramona Flanigan.

Chairperson Dave Maynard opened the meeting. The first order of business was confirmation of appropriate meeting notice. City Administrator Ramona Flanigan confirmed that the meeting notice was posted in the appropriate places as required under the Wisconsin Statutes.

A motion to open the first Public Hearing was made by ZBA Member Jorstad, seconded by ZBA Member Kapellen, and passed by unanimous roll call vote at 5:35.

The ZBA went into public hearing on the variance application of Erik Twaroski and Stephanie Unertl, 704 Dickinson Ave. (6-26-532) for a variance from Chap. 22.711(3)(b)4. to reduce the front yard setback from 25’ to 13.5’ to allow for the construction of stoop, steps and a covered porch.

Applicant Erik Twaroski spoke in favor of the application. He noted that the existing stoop was deteriorating and presented a safety issue. The Applicant indicated that they wished to improve the curb appeal.

ZBA Member Long sought clarification of the actual dimensions of the request. Administrator Flanigan provided clarification.

On motion of ZBA Member Long with a second by ZBA Member Ellingsworth, the Public Hearing was closed at 5:41. The motion passed on a unanimous roll call vote.

Administrator Flanigan presented the staff report which recommendation that the variance be approved noting that the lot was a substandard lot created prior to the current code. If the proposed structure were attached to a compliant home, no variance would be needed.

ZBA Member Kapellen moved for approval of the variance request with the facts as presented by the applicant and the Administrator. ZBA Member Long seconded the motion. Upon a roll call vote, the motion was granted unanimously.

The next order of business was the conducting of a second public hearing. A motion to open the first Public Hearing was made by ZBA Member Jorstad, seconded by ZBA Member Long, and passed by unanimous roll call vote at 5:44.

The ZBA went into public hearing on the variance application of Edgerton School District for its property located at 200 Elm High Drive (6-26-919.1) seeking a variance from Chapter 22.402(7) to reduce the separation distance between driveways from 25' to 12' to allow the construction of a driveway.

There were no presenters for the Applicant. ZBA Member Long requested clarification of the location of the proposed drive. Administrator Flanigan demonstrated the location on the Applicant's plat. ZBA Member Wellnitz asked if the reason for the request was due to an issue with driveway width. Administrator Flanigan confirmed that it was.

On motion of ZBA Member Kapellen with a second by ZBA Member Long, the Public Hearing was closed at 5:49. The motion passed on a unanimous roll call vote.

Administrator Flanigan presented the staff report which recommendation that the variance be denied on the basis that there was no demonstrated hardship.

ZBA Member Long inquired as to the size of the trucks using the loading dock. ZBA Member Ellingsworth confirmed the location of the parcel.

After brief further discussion, Chairman Maynard made a motion to deny the application on the basis of the staff report. The motion was seconded by ZBA Member Long. ZBA Member Esau asked if this request was due to the underlying zoning but was told that the requirements are the same in each district. ZBA Member Ellingsworth noted that this request was only to increase the ease of access, and that there was actual access. Upon a roll call vote, the motion to deny was approved unanimously.

The next order of business was the consideration of the approval of the minutes of the February 28, 2022 Zoning Board meeting. Upon a motion from ZBA Member Kapellen, seconded by ZBA Member Ellingsworth, the minutes were approved by unanimous roll call vote.

There being no further business of the Board, a motion was made by ZBA Member Long, seconded by ZBA Member Jorstad to adjourn. Motion was approved unanimously. The meeting was adjourned at 5:57.

Dated this 1<sup>st</sup> day of August, 2022.

Respectfully submitted,

CITY OF EDGERTON

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By: William E. Morgan, City Attorney