

CITY OF SHEBOYGAN

REQUEST FOR ZONING BOARD OF APPEALS CONSIDERATION

ITEM DESCRIPTION:

Address: 1612 Indiana Ave

Parcel #: 506740

Owner's Name: Fidel Najera

Zoning: UC

REPORT PREPARED BY: Jeff Lutzke, Building Inspector

REPORT DATE: 08/05/2022

MEETING DATE: 08/17/2022

BACKGROUND / ANALYSIS

Owner would has poured concrete sidewalks & patios around the perimeter of the dwelling. The concrete at the west side is closer than 3 feet to the side property line, and the concrete on the east side crosses over the side property line.

Ordinance #: 15.402 Minimum Paved Surface Setback: 3 feet from property line.

Requesting: 0 feet setback

Allowed: 3 feet setback

Ordinance #:

Requesting:

Allowed:

ATTACHMENTS:

Application, pictures, and drawing

222288



BUILDING INSPECTION DEPARTMENT
828 Center Avenue, Suite 208
Sheboygan, WI 53081-4442
Phone: (920) 459-3477
Fax: (920) 459-0210
buildinginspection@sheboyganwi.gov

APPLYING FOR A VARIANCE

Variances to zoning ordinances are considered by the CITY OF SHEBOYGAN Zoning Board of Appeals monthly on the third Wednesday at 3p.m. at a public hearing. In order to be considered for the next meeting, applications must be received in the Building Inspection Department Office **no later than** 4:30p.m. on the third Wednesday of the month prior to the scheduled public hearing:

7/20/22

Application Deadline Date

8/17/22

Board of Appeals Meeting Date

All applications must include:

- 1) Application forms, signed and dated, which are available at the Building Inspection Department Office and online.
- 2) The non-refundable filing fee - \$250.00.
- 3) Photographs of the property.
- 4) A site sketch, drawn to scale indicating the location of all existing structures and the proposed construction. Also indicate lot lines, size of lot, streets and other public ways, driveways, off-street parking, loading areas, and existing and proposed front, side and rear yards. Please consult with Building Inspection staff for more information.

Note:

- a) The applicant can present any additional information to inform the Board of the facts.
- b) In addition to the application information noted above, a survey is strongly recommended.
- c) Applicants should be aware staff may require a survey as part of the application information in order to clarify specific variance(s) requested.
- d) Applicants should be aware the Board of Appeals may require a survey as part of the application review and/or as a condition of approval prior to issuance of a building permit if a variance is granted.
- e) Building permits must be acquired within 6 months of the granted approval or the approval will be voided.
- f) Any information submitted on the application will become public record and is not subject to confidentiality.

FAILURE TO SUPPLY ADEQUATE AND / OR ACCURATE INFORMATION AS REQUESTED ABOVE CAN BE GROUNDS FOR DISMISSAL OF THE APPEAL REQUEST.

Applicants should be prepared to answer the following questions:

- * What **hardship** is created by the application of the Zoning Ordinance to this property? Is **reasonable use** of the property denied by the zoning regulations? In other words, is there an alternative plan that would **comply** with the ordinance?
- * Is there a **unique physical characteristic** of the property which prevents development of the property in compliance with the Zoning Ordinance?
- * Would granting the variance harm the **public interest** in any way? For example, would public safety be compromised? (Note: Lack of neighborhood opposition does not necessarily mean a variance would not harm the public interest.)

A notice of the date and time of the hearing will be mailed to all property owners within 100 feet and municipal property within 1,000 feet of your property. Notice of hearing will also be sent to the City of Sheboygan Planning Department. It is important you discuss your proposal with the Building Inspection and Planning Departments.

The property owner or a representative shall be present at the public hearing to present his or her request to the Board and answer any questions the Board members may have. Should an appearance not be made, or insufficient information presented, the appeal will not be considered and may be either placed on the agenda for the next meeting or denied. The appellant will be required to pay the additional expense incurred because of postponement of the hearing. Appellants are reminded the filing fee for a variance request is non-refundable.

I have read the above and understand my responsibilities regarding my appeal to the Zoning Board of Appeals. I have also read and understand the "Three Tests" for a Variance included with this form.

FUEC NAJERA
Signature

7/07/22
Date



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APPEAL FROM RULING OF THE BUILDING INSPECTOR
AND/OR ZONING ADMINISTRATOR

CASE NO: _____
FILING DATE: _____
RECEIPT NO: _____
ZONING DIST: _____

TO: THE ZONING BOARD OF APPEALS, CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WI

- 1). Appeal Location (address): 1612 Indiana Ave
- 2). Applicant: 2007 N 15th St Telephone #: (773) 791-2258
Address: Sheboygan WI 53081
- 3). Legal Property Description (Lot, Block, Subdivision, etc.) _____

- 4). Type of Building (Circle): Commercial - Residential
- 5). Request for (Circle): New Construction - Repairs Alterations - Addition - Nonconforming Use - Other
(if other) please list: _____
- 6). If the request is for a nonconforming use:
Your intended use: _____
Date last occupied as a nonconforming use: _____
By Whom: _____ Previous use: _____
- 7). Applicants interest in property: _____
- 8). On a separate letter to the Board describe the requested variance and include what unnecessary hardship or difficulty is caused by following the regulations or requirements of the ordinance. See the attached "The Three Tests for a Variance" and be prepared to argue how you pass the THREE TESTS FOR A VARIANCE.

I HEREBY CERTIFY THAT THE ABOVE APPLICATION AND/OR APPEAL AND ALL ATTACHMENTS THERETO ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Date: 7-7-20

Signature: Fidel Najera
Printed Name: Fidel Najera
Mailing Address: najeraf83@gmail.com

THE THREE "TESTS" FOR A VARIANCE

The CITY OF SHEBOYGAN adheres to a set of Zoning Ordinances to make certain your proposed construction is consistent with neighboring developments, a development does not infringe on the enjoyment of property belonging to neighboring owners, it does not detract from surrounding buildings or lots and is not out of character with the neighborhood, and a project meets necessary public health and safety standards. If your proposed construction cannot meet the requirements of the zoning or sign code, a **VARIANCE** is needed.

To obtain a variance, you must establish, due to some peculiarity of the property's size, shape, topography, etc., it would be a hardship or practical difficulty to meet zoning code requirements. ***These circumstances must not be self-imposed or self-created.*** In short, your proposed construction must meet and pass the three "tests" for a variance listed below.

IT IS RECOMMENDED YOU MEET WITH THE STAFF IN THE CITY'S PLANNING DEPARTMENT AND BUILDING INSPECTION DEPARTMENT BEFORE SUBMITTING YOUR APPLICATION FOR A VARIANCE. BUILDING INSPECTION STAFF WILL REVIEW THE STANDARDS FOR A VARIANCE (BELOW) PRIOR TO YOUR FILLING OUT THE APPLICATION AND PAYING THE NON-REFUNDABLE FILING FEE.

TEST #1: UNNECESSARY HARDSHIP

The Wisconsin Supreme Court has ruled that unnecessary hardship only exists when the zoning ordinance denies ***all reasonable use*** of the property. ***If there is an alternative plan that is within the bounds of the zoning ordinance, a variance is not warranted.***

The hardship experienced ***must not be self-imposed***; loss of profit, expense already incurred and additional expense incurred to comply with zoning ordinances ***are not*** unnecessary hardships.

TEST #2: UNIQUE PROPERTY LIMITATIONS

Unique physical characteristics of your property must prevent you from completing your proposed construction in compliance with the ordinance. The **property** must qualify for the variance, **not your particular situation**.

Additionally, existing violations on other properties or improper variances previously granted are not grounds for a variance.

TEST #3: NO HARM TO PUBLIC INTEREST

The Board members will be taking into account the reason for the existence of the zoning ordinance in applying this test. Lack of opposition ***does not*** necessarily mean the proposed construction would not harm the public interest.

The Board, in granting a variance, may impose conditions on the proposed construction to assure the public's interests are protected. Board members may only grant the ***minimum relief*** necessary for the reasonable use of the property.

Your proposed construction must meet all three "tests" to qualify for a variance. Variances are meant to be an ***infrequent remedy*** where an ordinance imposes a unique and substantial burden. ***They are not intended as an accommodation for a property owner's convenience.*** A variance decision may be appealed within 30 days of the filing of the decision in the office of the board.

Please contact the staff at the City's Planning Department and/or Building Inspection Department if you have any further questions.

We were sent paperwork by the city to repair the sidewalk in front of the house due to buckling of the current sidewalk. When fixing this issue, we also decided to add a sidewalk from the front to the back of the property. We were informed we should go over 6 to 8 inches more in order to assist in drainage. This would not only benefit our property, but would benefit the adjoining house. It will keep the water from flooding the basements in both houses by allowing the water to flow downward away from the properties.

In the letter from the city it also stated that we needed to cut the grass in front of the house. When we added concrete we decided to add cement in the front of the house also in order to prevent from having this issue as the property will be used for a rental property in the near future. Our plans were to add a bench and flower pots to the front for decoration purposes, but were trying to prevent future code ordinance violations in the future.

In the back of the house we added concrete after fixing the stairs to the back entrance. We added cement to the end of the house for a patio for the property. This was also intended to be used for the city garbage cans so that they could have a place to go when not in use. We also wanted to use this patio as an area for a grill and/or patio furniture.









1612







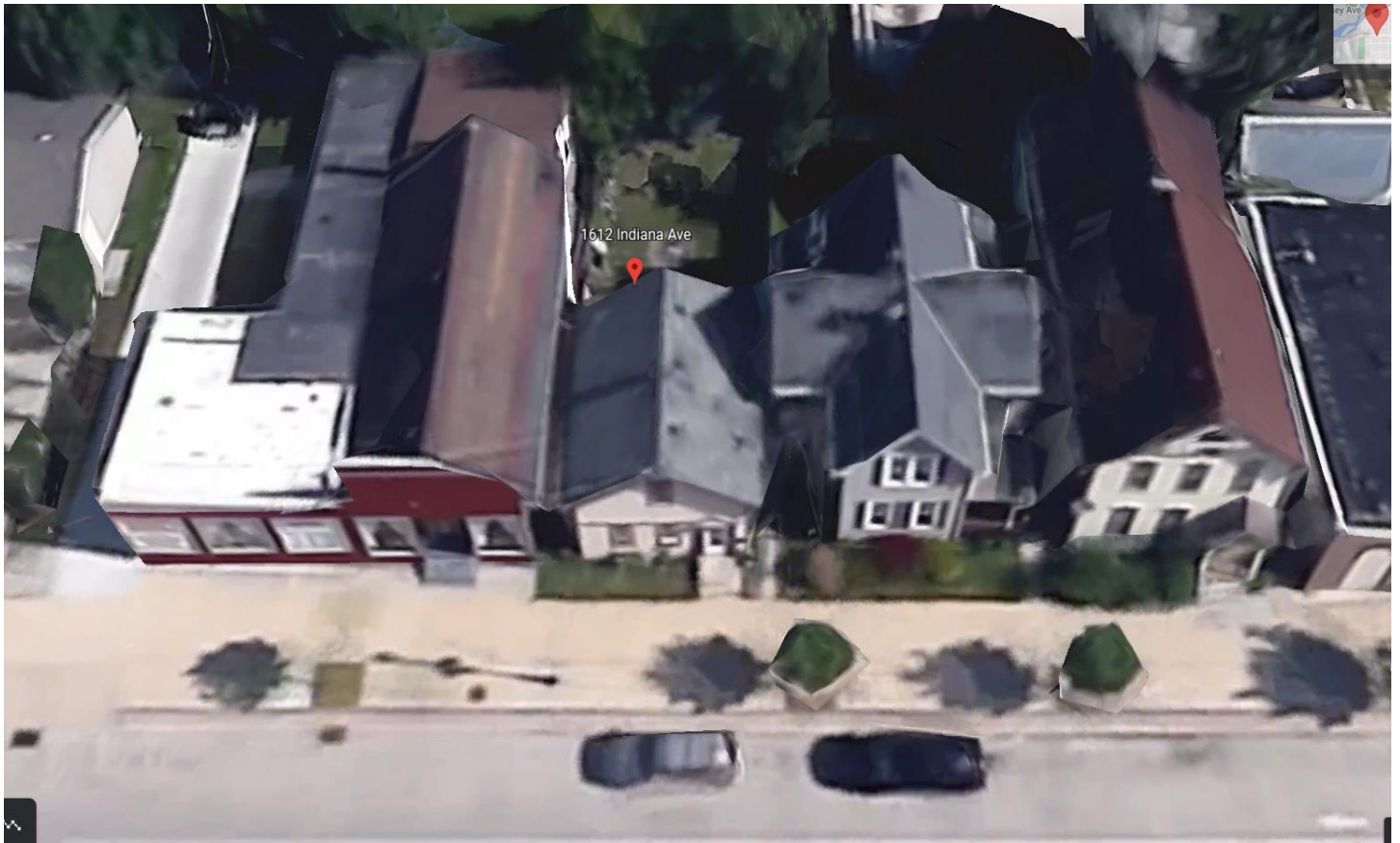




Network: Aug 11, 2022 1:46:20 PM CDT
Local: Aug 11, 2022 1:46:19 PM CDT
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1608 Indiana Avenue
Sheboygan County
Wisconsin



Network: Aug 11, 2022 1:47:00 PM CDT
Local: Aug 11, 2022 1:46:59 PM CDT
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1602 Indiana Avenue
Sheboygan County
Wisconsin







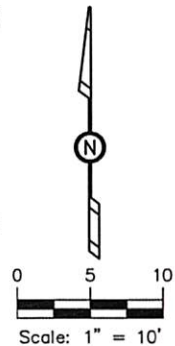
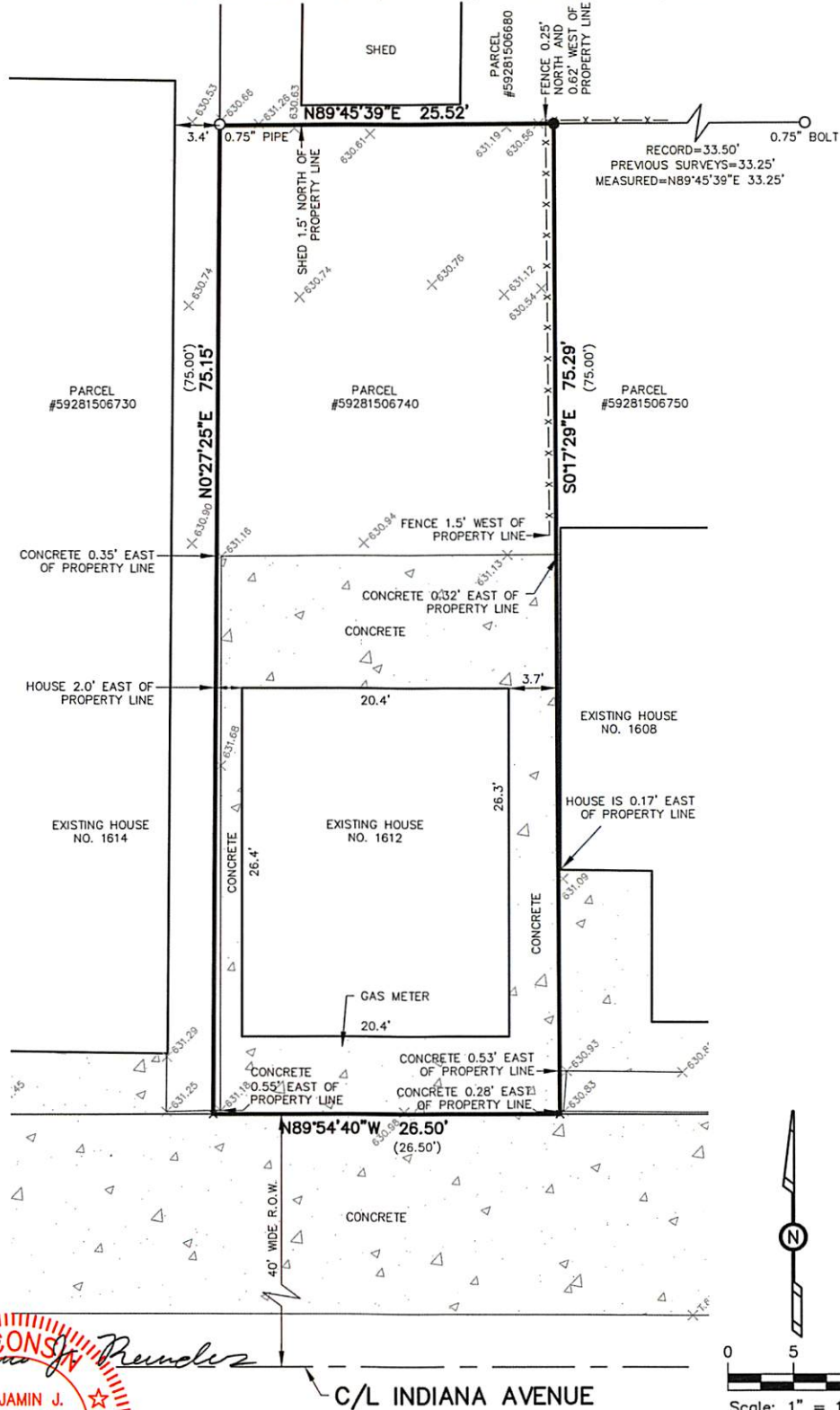




PLAT OF SURVEY

FOR: Fidel Najera

Parcel #59281506740, West 26.5' of the South 1/2 of Lot 11 Block 250 Original Plat, Part of the NW 1/4 of the NE 1/4, Section 27, T15N, R23E, City of Sheboygan, Sheboygan County, Wisconsin.



I Benjamin J. Reenders do hereby certify that this survey is correct to the best of my knowledge and belief.

LEGEND

- = Iron Stake Found
- = Iron Stake Set
- x = X in Concrete Set
- x-x- = Fence
- (##.##) = Recorded Dimension



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