

PO Box 159
242 Fredonia Avenue
Fredonia, WI 53021



Phone: 262-692-9125
Fax: 262-692-2883
mdepies@village.fredonia.wi.us

FREDONIA ZONING BOARD OF APPEALS MEETING
Wednesday, August 23, 2023 – 6:00 PM

Fredonia Government Center - Board Room
242 Fredonia Avenue, Fredonia, Wisconsin

**THE FOLLOWING BUSINESS WILL BE BEFORE THE BOARD OF APPEALS
FOR INITIATION, DISCUSSION, CONSIDERATION, DELIBERATION
AND POSSIBLE FORMAL ACTION**

AGENDA

1. Call to Order / Roll Call
2. Pledge of Allegiance
3. Consent Agenda:
 - a) Approve Minutes from the December 15, 2022 Zoning Board of Appeals Meeting
4. Public Hearing:
 - a) Report by Zoning Administrator on a Variance Request for Property Address 328 Deer Meadow Dr. Fredonia, WI, 53021 (Parcel Number 090800017000)
 - b) A Public Hearing for the Purpose of Hearing Public Comment on and Reaction to a Requested Variance.

Property Address: 328 Deer Meadow Dr. Fredonia, WI, 53021 (Parcel Number 090800017000)

Variance Requested: Village of Fredonia Zoning Code § 575-83. Accessory uses, buildings or structures. Applicant wishes to construct a play structure five feet from property line.

Applicant: Bradley Sherman, 328 Deer Meadow Dr. Fredonia, WI.

Agent: Same

5. Items for Discussion and/or Action:

- a) Motion to Approve Variance Request for Property Address 328 Deer Meadow Dr. Fredonia, WI, 53021 (Parcel Number 090800017000)

6. Items for Future Consideration

7. Correspondence

8. Adjournment

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the village clerk at (262) 692-9125.

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242 Fredonia Avenue
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Administrator: Christophe Jenkins
cjenkins@village.fredonia.wi.us
Clerk: Michelle T. Johnson
mjohnson@village.fredonia.wi.us
Treasurer: Melissa Depies
mdepies@village.fredonia.wi.us

**NOTICE OF
PUBLIC HEARING FOR A REQUESTED VARIANCE**

**VILLAGE OF FREDONIA
242 FREDONIA AVENUE**

Wednesday, August 23rd, 2023 – 6:00PM

PUBLIC NOTICE IS HEREBY GIVEN that the Board of Appeals of the Village of Fredonia will hold a public hearing for the purpose of hearing public comment on and reaction to a requested variance.

Property Address: 328 Deer Meadow Dr. Fredonia, WI, 53021 (Parcel Number 090800017000)

Variance Requested: Village of Fredonia Zoning Code § 575-83. Accessory uses, buildings or structures. Applicant wishes to construct a play structure five feet from property line.

Applicant: Bradley Sherman, 328 Deer Meadow Dr. Fredonia, WI.

Agent: Same

Interested citizens are encouraged to attend the public hearing on Wednesday, August 23rd, 2023 at 6:00PM at the Fredonia Government Center Board Room, 242 Fredonia Avenue, Fredonia, Wisconsin. Further information about this matter may be obtained by contacting the clerk of the Village of Fredonia.

FOR: Fredonia Board of Appeals

By: Michelle T. Johnson
Village Clerk

**VILLAGE OF FREDONIA
FREDONIA BOARD OF APPEALS
DECEMBER 15, 2022**

Board of Appeals chairman Weyker called the Fredonia Board of Appeals meeting to order at 6:01 p.m.

Board of Appeals members present: Ron Weyker, Gary Fatla, John Donald, Wally Quade, and Jeff Rogers.

Staff/Officials present: Village President Don Dohrwardt, Village Trustee Bruce Paape, Village Administrator Christophe Jenkins, and Village Clerk/Treasurer Melissa Depies.

Others present: Jim Lundberg – Point of Beginning and Ken Watry.

Motion to recommend approval of a variance of the Village of Fredonia Zoning Code Section 575-63 – Parking Requirements; request from Dollar General to reduce the size of the parking stall to 9 feet wide X 20 feet deep and reduce the parking requirements to 30 parking stalls – 111 Fredonia Avenue

Jim Lundberg-Point of Beginning, representing Dollar General, stated that Dollar General is requesting a variance to reduce the size and number of parking stalls. They are requesting that the stalls be 9' wide x 20' deep vs. 10' wide x 18' deep and allow 30 stalls. Village code requires 1 parking space per 250 square feet of building area, which calculates to 36.4 parking stalls.

Jeff Rogers confirmed that there were no changes to the handicap parking.

Motion by John Donald, seconded by Wally Quade, to approve a variance of the Village of Fredonia Zoning Code Section 575-63 – Parking Requirements; request from Dollar General to reduce the size of the parking space to 9 feet wide X 20 feet deep and reduce the parking requirements to 30 parking stalls at 111 Fredonia Avenue. Motion carried unanimously.

Review request from Ken Watry for Conditional Use Permit to sell used vehicles on vacant property on Fredonia Avenue

Ken Watry stated that he owns vacant property on Fredonia Avenue just east of the apartments across from Freedom Park. He is requesting permission to sell used vehicles on the property, stating that there will be no more than 5 cars on the lot at any given time.

Mr. Watry stated that the Plan Commission discussed this matter and denied the request. He also noted that Jimmy B's owns two lots on the corner of Martin Drive and Highland Drive. One lot includes the building with the business and the other is a vacant lot. Jimmy B has been granted a conditional use permit to sell used vehicles on the vacant lot without a dealers license. It was Mr. Watry's opinion this was the same type of request; he did not understand why he was being denied the conditional use to sell vehicles on his vacant lot while Jimmy B's was granted the conditional use permit.

John Donald questioned if this was the same lot where there were cars on a trailer, cars with no tires, and non-operational vehicles recently parked for sale. Mr. Watry stated that he did have that type of stuff in the past; however he will not be doing that in the future if the conditional use permit is granted.

Village Administrator Jenkins stated that this is not a good use for the property. This is not the type of activity the Village wants for the gateway to the Village. The conditional use permit was denied based on location.

Wally Quade stated that this would not be a good use for this property. All members agreed.

Adjournment

Motion by John Donald, seconded by Jeff Rogers, to adjourn the meeting at 6:28 p.m. Motion carried unanimously.

Respectfully Submitted:

Melissa Depies
Village Clerk

From the Desk of:
Christophe E. Jenkins
Village Administrator



Board of Appeals Meeting – August 23rd, 2023
Consideration of a Variance at 328 Deer Meadow Drive

Board of Appeals Members,

Before you is a consideration to grant a setback variance at 328 Deer Meadow Dr. for the purpose of placing a play structure 4 feet from the property line.

Mr. Sherman has exercised due diligence by contacting Village Offices and working with Residential Building Inspector John Derler. Mr. Sherman was assured by Inspector Derler, both before and during construction that no permissions, permits or variances were needed for the size, scope, and location of his playset. Upon receiving a complaint from a neighbor as construction commenced, Village staff connected with the Village Attorney, Johnathan Woodward, to confirm what, if any, permissions were required. Upon review by Attorney Woodward, it was determined that a play structure such as this falls within the setback requirements for an accessory structure. RS-1 zoning requires accessory structures to have a 25-foot setback.

As stated by Mr. Sherman, requiring a 25 ft setback on almost any standard sized property within the Village would not be feasible, as it would overlap with the area needed for the primary residence, attached garages, and the like. Furthermore, there are multiple examples from across the Village where either a permit was not acquired or the setback requirement was not adhered to. While this does not point to blanket permission, it does set a level of precedence.

In order for the Board of Appeals to grant a variance the applicant must satisfy all of the following:

- Unnecessary hardship
- Unique property limitations
- Prove that the variance poses no harm to public interest

In my capacity as both the Village Administrator and Zoning Administrator for the Village of Fredonia, I would state that the applicant has proven all three to be satisfied, and ask that the Board of Appeals grant this variance. Staff will be investigating an update to the Village Code of Ordinances to be more in-line with the historical norm for accessory structures and more closely defining the types of structures that fall within these guidelines.

Thank you,

Christophe E. Jenkins – Village Administrator

A handwritten signature in black ink, appearing to read "C. E. Jenkins", is written below the printed name.



Request for Variance

242 Fredonia Ave
 PO Box 159
 Fredonia, Wisconsin 53021
 (262) 692-9125
<https://www.fredoniawi.gov/>

Date Filed	8-7-23
Fee	\$200.00

Owner's Information

Owner of Property	Bradley Sherman
Property Address	328 Deer Meadow Dr.
City, State, Zip Code	Fredonia WI 53021
Phone Number	414-640-0756
Email	Shermab1@hotmail.com

Variance Information

Variance Requested:	Playset built 5 ft from property line.
Describe Why Variance is Desired:	Called village prior to building structure asking about permits + code needing to be followed. Was told by multiple individuals that there was no ordinances to follow. Structure has been being built for over 5 weeks. Mr. Decker inspected structure while building + again no concerns were raised.
Current Zoning District	

Names and Addresses of Adjoining Property Owners

(Use Reverse if Needed)

1.	Jim Russell	323 Deer Meadow Dr.
2.	Jessica Mitchell	508 Glendale Rd.
3.		
4.		
5.		
6.		
7.		
8.		
9.		

I certify that the foregoing statements are true and correct to the best of my knowledge.

Signature of Owner:	<i>Bradley Sherman</i>
Address of Owner (if different from above):	

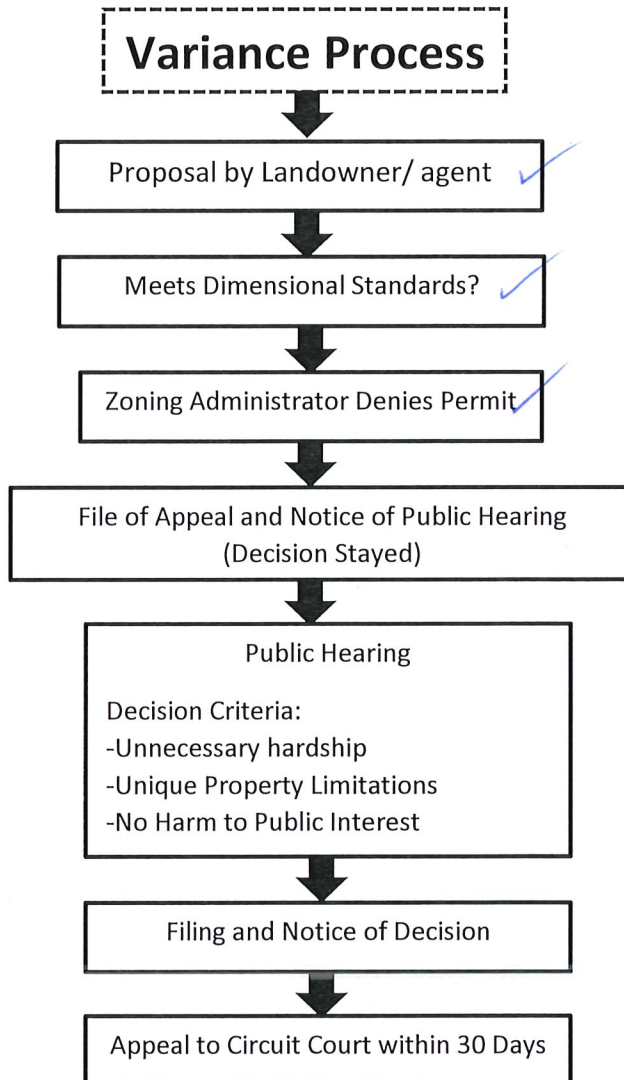
Required Supplemental Documentation

- A plat of survey prepared by a surveyor registered in the State of Wisconsin or scale drawing showing the location and size of the property, existing improvements, all abutting properties and improvements thereon and any change or addition requested.
- The applicant shall provide all information requested on the form and any additional information requested by the Chairman or Secretary of the Zoning Board of Appeals which is necessary to inform the Board of the facts of the appeal.

For Village Use Only

Class 1 Notice Required

Date Application Filed	8/7/2023
Date Published	8/17/2023
Date Notices Mailed	8/19/2023
Date of Public Hearing	8/23/2023
Date Variance Issued/Denied	





Trinity Homes LLC
Spec

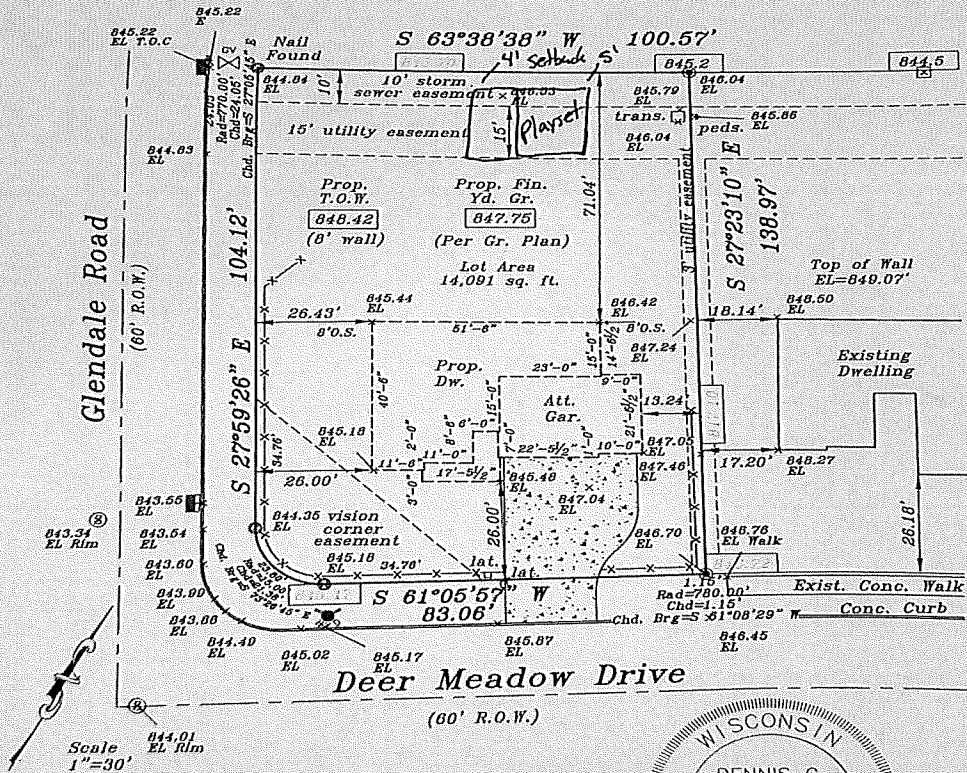
PLAT OF SURVEY

LOCATION: Deer Meadow Drive, Fredonia, Wisconsin

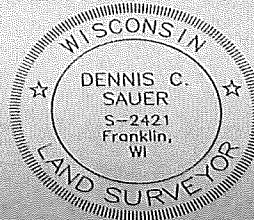
LEGAL DESCRIPTION:
Lot 17 in VILLAGE GREEN, being a subdivision of a part of the Southeast 1/4 of the Northwest 1/4, the Southwest and Southeast 1/4 of the Northeast 1/4, and the Northeast 1/4 of the Southwest 1/4 of Section 26, Town 12 North, Range 21 East, in the Village of Fredonia, Ozaukee County, Wisconsin.

November 17, 2011

Survey No. 103305



000.0 — Denotes Proposed Grade
 x x x — Denotes Proposed Silt Screen



METROPOLITAN SURVEY SERVICE, INC.
 REGISTERED LAND SURVEYORS AND CIVIL ENGINEERS
 6800 Broad Street, Greendale, Wisconsin 53120
 PH. (414) 529-5380 FAX (414) 529-9787
 email address: survey@bizwvllr.com

I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY, ITS EXTERIOR BOUNDARIES, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS AND ROADWAYS AND VISIBLE ENCROACHMENT, IF ANY.

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM THE DATE HEREOF.

⊙ — Denotes Iron Pipe Found
 ○ — Denotes Iron Pipe Set

SIGNED _____
Dennis C. Sauer
 Registered Land Surveyor S-2421







To Whom It May Concern,

Our family is respectfully requesting a 4 ft setback to accommodate a playset structure.

Brief description of why a 4ft setback is acceptable:

A) I spoke with the Village Building Inspector prior to building my play structure. I informed them of the size, placement, etc. I was told that there were no ordinances pertaining to building a play structure and that I was good to begin building. After 7 weeks of building, I was then informed that I was in violation of the 25ft setback ordinance. During these 7 weeks, the Village Building Inspector was out to check out my structure as there was a complaint about it. At that time, I was informed that things were good and to continue building. That happened 2 weeks ago - mis-information on the Village's part should play into this appeal being acceptable.

B) I am asking for the Village to grant a variance for my play structure to accommodate a 4 ft setback from the rear property line. Current ordinance states my accessory play structure be 25 ft from the rear property line. This set back is not feasible for lots located within the village. 25 ft from the rear lot line puts any structure built in the middle of my yard. My yard is not big enough to support this setback ordinance. Other similar accessory structures in the Village have not adhered to this setback requirement, permitted or not. My playset falls within setback guidelines for detached garages and sheds. Both require a minimum of 3 ft setback. My playset, at a 4ft setback is within reason.

I have attached the Plat survey with play structure drawn on there. I will also bring a list of signatures to the meeting of all my neighbors who support the play structure being built at its current location. If there is anything else I can provide please let me know.

Thank you,

Brad Sherman

Chapter 575. Zoning

Article IX. Accessory Uses and Structures; Fences and Hedges

§ 575-83. Accessory uses, buildings or structures.

- A. Principal structure to be present. An accessory building or structure in any zoning district shall not be established prior to the principal building or structure being present or under construction. Any accessory building or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- B. Placement restrictions. An accessory building, use or structure may be established subject to the following regulations:
- (1) Placement and dimensions. Accessory uses and detached accessory structures are permitted in the rear yard only; they shall not be closer than five feet to the principal structure, shall not exceed 15 feet in height, and shall not occupy more than 20% of the rear yard area in all districts except the following:
[Amended 5-16-2019 by Ord. No. 2019-04; 5-6-2021 by Ord. No. 2021-3]
 - (a) Business districts, where such uses and structures shall not occupy more than 75% of the rear yard area, and shall not be closer than three feet to any lot line nor five feet to an alley line.
 - (b) Rebuild approval permit. In the RS-3 Zoning District, which is an older, small-lot-sized district within the Village, there is an additional exception to the 20% limitation for occupying area. In the RS-3 Zoning District, where an accessory structure currently exists, the property owner may apply to the Planning Commission for a rebuild approval permit to occupy more than 35% of the rear yard area. For corner lots in the RS-3 Zoning District, the side yard setback can be based upon the existing setback of the existing home, even if it is less than 25 feet. The Planning Commission will consider the actual lot, the neighborhood, and the effect the permit would have on neighboring parcels and the effect that it would have on the applicant's parcel. The rebuild approval permit may allow for the rebuilding of an accessory structure up to a maximum of 864 square feet, on a case-by-case basis, after review and approval by the Planning Commission.
 - (2) Temporary storage buildings. Temporary buildings for storage of building materials and equipment and for construction purposes are allowed when on the same or adjoining lot as the principal use for a period not to exceed the duration of such construction.
 - (3) Tents. Under no circumstances may a tent be used as an accessory structure for more than three consecutive days.^[1]
[1] *Editor's Note: Former Subsection B(4), Rebuild approval permit, as amended, was repealed 5-6-2021 by Ord. No. 2021-3.*
- C. Use restrictions – residential district. Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for household occupations as defined herein and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes.
- D. Landscaping uses. Accessory vegetation used for landscaping and decorating may be placed in any required yard area. Permitted vegetation includes trees, shrubs and flowers and gardens.
- E. Outdoor lighting. Outdoor lighting installations shall not be permitted closer than three feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed 15 feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties. Outdoor lighting is subject to regulation under § 575-65.
- F. Lawn accessories. Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, sun dials, flag poles, etc., shall be permitted in setback areas but not closer than three feet to an abutting property line other than a street line.
- G. Retaining walls. Retaining walls may be permitted anywhere on the lot; provided, however, that no individual wall shall exceed six feet in height, and a terrace of at least three feet in width shall be provided between any series of such walls.
- H. Terrace area restrictions. In addition to the definitions and restrictions contained in Chapter 491, Streets and Sidewalks, Article IV, § 491-11, and Chapter 522, Trees and Shrubs, § 522-2, of this Code of Ordinances, no person shall place any accessory structure or use, including landscaping ornaments, stones and basketball backboard/hoops, in the terrace area.

Chapter 575. Zoning

Article III. Zoning Districts

§ 575-16. RS-1 Single-Family Residential District.

- A. Purpose. The RS-1 Residential District is intended to provide for single-family residential development at densities not to exceed the density specified by this section, served by municipal sewer and water facilities.
- B. Permitted buildings, structures and uses.
- (1) Single-family dwellings. On all lots platted after the effective date of this chapter, an attached garage for two but not more than three vehicles is required.
 - (2) Foster family home.
 - (3) Community living arrangements which have capacity for eight or fewer persons being served by the program.
 - (4) Essential services, provided all aboveground facilities are not located in any street yard.
- C. Permitted accessory buildings, structures and uses.
- (1) Detached garage if an existing garage is attached to the principal structure. (See building code for specific limitations.)
 - (2) Gardening, tool and storage sheds, gazebos and decks incidental to the residential use.
 - (3) Large accessory structures such as pole buildings or similar, must be approved by the Architectural Control Board.
 [Added 3-5-2020 by Ord. No. 2020-03^[1]
 [1] *Editor's Note: This ordinance also renumbered former Subsection C(3) as C(4).*
 - (4) Household occupations and professional home offices.
- D. Conditional uses.
- (1) Attached garages in excess of those allowed as permitted uses.
 - (2) Large accessory structures, such as pole buildings or similar.
 [Added 3-5-2020 by Ord. No. 2020-03^[2]
 [2] *Editor's Note: This ordinance also renumbered former Subsection C(2) as C(3).*
 - (3) See Article IV.
- E. Table of detailed RS-1 District standards.
 [Amended 3-5-2020 by Ord. No. 2020-03]

Type of Standard	Standard
Unified development density	
Gross density	1.786
Net density	2.232
Individual lot intensity	
Maximum lot coverage	30%
Maximum floor area	35%
Minimum single-family lot area	16,000 square feet (17,000 square feet corner lot)
Individual lot dimension requirements	
Minimum width at setback line	90 feet (100 feet corner lot)
Minimum lot depth	125 feet
Minimum street yard setback	25 feet
Minimum side yard setback	15 feet*
Minimum rear yard setback	25 feet
Minimum wetland setback	30 feet
Minimum shoreyard setback	75 feet
Minimum dwelling size	
1 story	1,500 square feet
1 1/2 story:	
First floor	1,000 square feet
Total dwelling	1,500 square feet
2 story dwelling:	
First floor	875 square feet
Total dwelling	1,500 square feet
Bi-level and tri-level:	
At least 1 level	600 square feet
Total finished at 2 offset levels	1,500 square feet
Raised ranch:	

Type of Standard	Standard
Main floor finished area	1,500 square feet
Maximum building height	
Principal structure	35 feet
Accessory structure	15 feet
Large accessory structures such as pole buildings or similar	Approved by Architectural Control Board
Natural resource preservation requirements	
Woodlands and forests	70%
Lakes and ponds	100%

* Minimum side yard setback. Except for additions to or replacement of existing dwellings, then the side yard setback can be equal to or greater than the setback of the existing home, but not less than three feet, with the approval of the Architectural Control Board.

Chapter 575. Zoning

Article XV. Definitions

§ 575-124. Terms defined.

As used in this chapter, the following terms, which are divided into "general definitions" and "use definitions," shall have the meanings indicated in this section:

A. General definitions.^[1]

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

ABUTTING

Have a common property line or district line.

ACCESSORY BUILDING OR USE

A detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

(1) An accessory building or use is one which:

- (a) Is customary and clearly incidental to the principal building or principal use;
- (b) Serves exclusively the principal building or principal use;
- (c) Is subordinate in area, extent or purpose to the principal building or principal use;
- (d) Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
- (e) Is located on the same zoning lot as the principal use served, with exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.

(2) An accessory building or use includes, but is not limited to, the following:

- (a) A children's playhouse, garden house or private greenhouse;
- (b) A garage, carport, shed or building for storage incidental to a permitted use;
- (c) Incinerators incidental to a permitted use;
- (d) Storage of goods used in or permitted manufacturing activities on the same zoning lot with such activities, unless such storage is excluded by the district regulations;
- (e) The production, processing, cleaning, servicing, testing, repair or storage of merchandise normally incidental to a permitted retail service or business use if conducted by the same ownership as the principal use;
- (f) Off-street motor vehicle parking areas and loading facilities;
- (g) Signs, as permitted and regulated in each district incorporated in this chapter; and
- (h) Earth station dish antennas over three feet in diameter, which are ground-mounted or building-mounted.

ACRE, NET

The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.

ALLEY

A public way not more than 24 feet wide which affords only a secondary means of access to abutting property.

APARTMENT

A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

ARTERIAL STREET

A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.

AWNING

An awning is a retractable, roof-like cover, temporary in nature, which projects from the wall of a building.

BASEMENT

That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-around living accommodations.

BLOCK

A block is a tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad right-of-way, bulkhead lines or shorelines of waterways. A block may be located in part beyond the boundary lines of corporate limits of the Village.

BOARD OF APPEALS/ADJUSTMENT

The body established under § 62.23, Wis. Stats., for cities or villages and designated "Board of Appeals," or as established under § 59.99, Wis. Stats., for counties and designated "board of adjustment."

BUILDABLE LOT AREA

The portion of a lot remaining after required yards have been provided.