



CITY HALL • 100 STATE STREET • BELOIT, WI 53511  
Office: 608/364-6700 • Fax: 608/364-6609  
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**BELOIT BOARD OF APPEALS  
MEETING NOTICE AND AGENDA**

Tuesday, May 9, 2017

**7:00 PM**

The Forum

Beloit City Hall

100 State Street

1. Roll Call
2. Minutes of the October 14, 2014 and July 12, 2016 Meetings
3. Janet A. Becker – 1263 Eaton Avenue  
BOA-2017-01 Use Variance to Section 4-202 of the City of Beloit Zoning Ordinance to allow a two-family dwelling (duplex) in an R-1B, Single-Family Residential District, for the property located at 1263 Eaton Avenue.
4. Adjournment

*If you are unable to attend this meeting, notify the Planning Office at (608) 364-6700 **no later than 4:00 PM the day before the meeting.***

Notice Mailed: April 25, 2017

Approved: Drew Pennington, AICP, Director of Planning & Building Services

**MINUTES**  
**CITY OF BELOIT BOARD OF APPEALS**  
**Meeting of October 14, 2014**

A Meeting of the City of Beloit Board of Appeals was held on Tuesday, October 14, 2014, in The Forum of Beloit City Hall, 100 State Street. Chairperson Gregory Gaul called the meeting to order at 7:00 PM.

1. **Roll Call**

Director of Planning & Building Services Drew Pennington called the roll. Present were: Randall Fiore, Gregory Gaul, Carolyn Hansen, John Schroer, and Merlin Bussan.

2. **Approval of the Minutes of the September 22, 2014 Meeting**

Mr. Fiore made a motion to approve the September 22, 2014 Minutes as submitted. Mr. Schroer seconded the motion. The motion passed (5-0), voice vote.

3. **Rachel Cates**

BOA-2014-03 Area Variance to Section 6.3.3(b)(1) of the City of Beloit Zoning Ordinance to allow an attached garage to encroach into an interior side setback area, for the property located at 2244 Knoll View Drive.

Mr. Pennington reviewed the staff report and recommendation.

Rachel Cates identified herself as the applicant. Mr. Fiore stated that he had visited the subject property and noticed a for sale sign in the yard. Mr. Fiore asked Ms. Cates if the requested variance to build a garage was intended to increase the resale value of her property, and she confirmed that increasing the marketability of her property was a main motivation. Mr. Fiore commented that wanting to increase a property's value for resale should not be considered valid hardship. Several Board members agreed. Mr. Gaul asked Ms. Cates to explain the use of the detached building in the rear yard, and Ms. Cates explained that it was a workshop/storage building. Mr. Gaul commented that the hardship seemed self-created.

Mr. Fiore made a motion to deny the requested variance. Mr. Gaul seconded the motion. The motion passed (5-0), voice vote.

4. **Adjournment**

The meeting adjourned at 7:35 PM.

Respectfully submitted,  
Drew Pennington, AICP

**MINUTES**  
**CITY OF BELOIT BOARD OF APPEALS**  
**Special Meeting of July 12, 2016**

A Special Meeting of the City of Beloit Board of Appeals was held on Tuesday, July 12, 2016 in the 4<sup>th</sup> Floor Conference Room of Beloit City Hall, 100 State Street. Vice-Chairperson John Schroer called the meeting to order at 2:00 PM.

**1. Roll Call**

Director of Planning & Building Services Drew Pennington called the roll. Board Members present: Randall Fiore, John Schroer, Merlin Bussan, Willis Zick, and John Petersen. Carolyn Hansen was absent.

**2. Election of Officers**

a. Nomination and election of Chairperson

Mr. Fiore nominated Mr. Schroer for Chairperson, seconded by Mr. Zick. Mr. Schroer accepted the nomination. The Board voted unanimously to accept Mr. Schroer as the Chairperson.

b. Nomination and election of Vice-Chairperson

Mr. Fiore nominated Mr. Bussan for Vice-Chairperson, seconded by Mr. Schroer. Mr. Bussan accepted the nomination. The Board voted unanimously to accept Mr. Bussan as the Vice-Chairperson.

c. Nomination and election of 2<sup>nd</sup> Vice-Chairperson

Mr. Schroer nominated Mr. Petersen for 2<sup>nd</sup> Vice-Chairperson, seconded by Mr. Bussan. Mr. Petersen accepted the nomination. The Board voted unanimously to accept Mr. Petersen as the 2<sup>nd</sup> Vice-Chairperson.

**3. Discussion of Recent Case Law & Legislation**

Mr. Pennington reviewed three recent cases involving appeals boards in Wisconsin, as summarized in legal updates provided by the Wisconsin Chapter of the American Planning Association and UW-Extension. The first case was NextMedia Outdoor, Inc. v. Village of Howard, which was a decision by the Wisconsin Court of Appeals. The second case was Heef Realty and Investments, LLP v. City of Cedarburg Board of Appeals, which was also a decision by the Wisconsin Court of Appeals. The third and final case was Murr v. State of Wisconsin, a significant case out of St. Croix County that will be reviewed by the U.S. Supreme Court in October. The Board members discussed some of the significant aspects of each case.

**4. Discussion of Site Visits**

Mr. Pennington reviewed the article "Site Visits: Necessary But Tricky" by C. Gregory Dale, AICP. This article originally appeared in Volume 39 of the *Planning Commissioners Journal* in Summer 2000. The Board members discussed some of the

suggestions in the article, and asked staff to schedule more officially noticed site visits for future variance applications.

**5. Adjournment**

The meeting adjourned at 2:49 PM.

Respectfully submitted,  
Drew Pennington, AICP

# CITY OF BELOIT

## REPORT TO THE BELOIT BOARD OF APPEALS



**Meeting Date:** May 9, 2017

**Agenda Item:** 3

**File Number:** BOA-2017-01

**Applicant:** Janet A. Becker

**Owner:** Janet A. Becker

**Location:** 1263 Eaton Avenue

**Existing Zoning:** R-1B, Single-Family Residential District

**Existing Land Use:** Single-Family

**Parcel Size:** 0.1 Acre

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### Request:

Janet A. Becker has filed an application requesting a Use Variance to Section 4-202 of the City of Beloit Zoning Ordinance to allow a Two-Family Dwelling (duplex) in an R-1B, Single-Family Residential District, for the property located at 1263 Eaton Avenue.

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### Request Overview/Background Information:

The applicant occupies the northern half of the 2,400 square-foot building on the subject property, which is structurally divided into two units. The southern unit is vacant. Prior occupancy of both units within the building on the subject property constituted a legal nonconforming use of the property. This nonconforming status lapsed after the south unit remained vacant for more than one year. If the requested variance is approved, the applicant will be able to legally occupy both units.

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### Key Issues:

- The subject property is located at the SE corner of the intersection of Eaton Avenue and Keeler Avenue, directly across the street from the Kolak Education Center, which was constructed (c. 1919) as Roosevelt Jr. High School.
- As shown on the attached map, the predominant surrounding land use is single-family residential with a detached garage. The majority of the neighborhood homes were constructed from 1905 to 1930, when this neighborhood (and all of Beloit) experienced rapid growth. The majority of homes are owner-occupied, although that percentage decreases noticeably from the east to west. There are a few duplexes in the immediate area, although the neighborhood was downzoned to single-family residential in 1999. The City-wide downzoning in 1999 applied to all structures, including those like the subject property that were constructed as duplexes.
- Section 4-202 of the Zoning Ordinance incorporates Table 6.1-1 as the "Use Table" outlining the uses permitted by right, allowed with a Conditional Use Permit, and prohibited in the City's residential, commercial, and industrial zoning districts. Duplexes are prohibited in the R-1B district.
- On March 1, 2017, Planning staff determined that the south unit within the building on the subject property has been vacant for more than ten years, and sent the applicant the attached Loss of Nonconforming Status letter. The long-term vacancy came to the attention of Planning staff after the water meters were replaced in late 2016.
- According to the applicant, the subject property was constructed as a duplex in 1923 (City records show 1920) and has been under her ownership since 1976.
- The applicant has consistently obtained a Rental Registration Certificate (previously known as a Rental Permit) for the vacant south unit, and has passed all systematic interior inspections during the past decade.
- According to a review of the property file, the last known evidence of occupancy of the vacant south unit is a motor vehicle violation notice relating to a tenant's vehicle in February 2002.
- The attached Public Notice was sent to 16 nearby property owners. Planning staff has not received comments.
- **Wisconsin Supreme Court Standards for Use Variances**  
The Wisconsin Supreme Court has established a standard for granting variances to zoning regulations. For Use Variances, the property owner and/or applicant has the burden of proving that the standard for granting such a variance has been met. In order to grant a Use Variance, the Board of Appeals must determine that **all of the following criteria** of Section 2-902 are satisfied:
  - (a) Granting of the variance will not be contrary to the public interest; and
  - (b) Due to special conditions, a literal enforcement of the zoning ordinance will result in practical difficulty or unnecessary hardship; and
  - (c) The variance is needed so that the spirit of the zoning ordinance will be observed, while public safety and welfare are secured; and
  - (d) Substantial justice will be done by granting the variance; and
  - (e) The property owner would have no reasonable use of the property without a variance.
- The attached Findings of Fact evaluate this application against the above standards.

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**Consistency with Comprehensive Plan:**

The Comprehensive Plan recommends Single-Family Residential – Urban uses for the subject property. The subject property's zoning district classification is consistent with this recommendation.

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**Sustainability:**

- **Reduce dependence upon fossil fuels – N/A**
  - **Reduce dependence on chemicals and other manufacturing substances that accumulate in nature – N/A**
  - **Reduce dependence on activities that harm life sustaining eco-systems – N/A**
  - **Meet the hierarchy of present and future human needs fairly and efficiently – N/A**
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**Staff Recommendation:**

The Planning & Building Services Division recommends **denial** of the requested Use Variance to Section 4-202 of the City of Beloit Zoning Ordinance to allow a Two-Family Dwelling (duplex) in an R-1B, Single-Family Residential District, for the property located at 1263 Eaton Avenue, based upon the attached Findings of Fact.

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**Attachments:** Findings of Fact, Location & Zoning Map, Photos, Application, Loss of Nonconforming Status Letter, Public Notice, and Mailing List.

# CITY OF BELOIT

## FINDINGS OF FACT

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**Use Variance to Section 4-202 of the City of Beloit Zoning Ordinance to allow a Two-Family Dwelling (duplex) in an R-1B, Single-Family Residential District, for the property located at 1263 Eaton Avenue.**

Under the standards for a Use Variance in Section 2-902 of the Zoning Ordinance, Planning staff finds:

- (a) Granting of the variance **will** be contrary to the public interest; and

*The R-1B zoning classification and City-wide downzoning in 1999 were intended to reduce residential density in existing neighborhoods, regardless of the structural makeup of the structures therein.*

- (b) Due to special circumstances, a literal enforcement of the zoning ordinance **will not** result in practical difficulty or unnecessary hardship; and

*According to the applicant, literal enforcement of the ordinance will result in difficulty and hardship by decreasing the attractiveness of the property to potential buyers, who will need to invest in converting the building into a single-family dwelling. While Planning staff does not disagree with that argument, the courts have consistently held that hardship cannot be self-created, and that financial hardship alone does not justify a variance.*

- (c) The variance **is not** needed so that the spirit of the zoning ordinance will be observed, while public safety and welfare are secured; and

*The intent of the Zoning Ordinance is to promote public health, safety, and welfare through land use regulation. The subject property and the surrounding area are planned and zoned for single-family dwellings.*

- (d) Substantial justice **will not be** done by granting the variance; and

*Granting the variance would allow the perpetual occupancy of a nonconforming duplex in a single-family district.*

- (e) The property owner **would have** reasonable use of the property without a variance.

*According to the applicant, her intent is to sell the subject property, and the requested variance is intended to increase the property's value. The subject property may be used as a single-family dwelling – a rental or owner-occupied dwelling. Potential buyers have the option of using the second unit for storage, or spending the money to convert the building into a larger single-family dwelling. The courts have consistently held that, if any feasible use of the property is available, then a true hardship cannot exist. There are reasonable and feasible uses of the property available to the applicant and to potential buyers.*

# Location & Zoning Map

1263 Eaton Avenue

BOA-2017-01



1 inch = 68 feet  
0 10 20 40 60 Feet

## Legend

- City Limits
- Zoning District

Map prepared by: Drew Pennington, AICP  
Date: April 2017  
For: City of Beloit Planning & Building Services  
Date of Aerial Photography: March 2011

# PLANNING & BUILDING SERVICES DIVISION





May 9 Staff Report, BOA-2017-01, 1263 Eaton Avenue

# CITY of BELOIT

## Planning & Building Services Division

100 State Street, Beloit, WI 53511 Phone: (608) 364-6700 Fax: (608) 364-6609

### Board of Appeals Application Form

(Please Type or Print)

File Number: BOA-2017-01

The North 52 feet of Lot 1  
and the North 52 feet of the  
West 30 feet of Lot 2

1. Property Address: 1263 Eaton Avenue, Beloit, WI

2. Tax Parcel Number(s): 1253-0660

→ 3. Legal description: Lot: \_\_\_\_\_ Block: 3 Subdivision: Graveland Place Addition  
If property has not been subdivided, attach a copy of the complete legal description.

4. Owner of record: Janet A. Becker Phone: 608-362-4619

1263 Eaton Ave., Beloit WI 53511  
(Address) (City) (State) (Zip)

5. Applicant's Name: Janet A. Becker

1263 Eaton Ave., Beloit WI 53511  
(Address) (City) (State) (Zip)

608-362-4619 / \_\_\_\_\_ / \_\_\_\_\_  
(Office Phone #) / Home (Cell Phone #) (E-mail Address)

6. Present zoning: R-1B Present use: Duplex

7. Proposed use (if different): Duplex

8. Purpose of application: ( ) "Area" Variance (X) "Use" Variance

( ) Appeal of order or decision of Administrative Official

9. Code from which relief is sought or appeal is taken:

(X) Zoning Ordinance ( ) Flood Plain Ordinance

10. State specific sections of code and Variance(s) requested: (Use separate sheet if necessary)

U-202 allowed uses in R1B

11. State specific hardship experienced by the applicant: (Use separate sheet if necessary)

See the attached sheet

(Continued on back)

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**12. In order for this application to be considered complete, the applicant must attach a scale drawing (1" = 20' usually works best) showing the location of property lines and their dimensions, existing buildings and improvements, all abutting properties and improvements thereon, and the proposed changes or additions. You are required to furnish a legible drawing with enough detail that will adequately advise and inform the Board.**

**The applicant's signature below indicates the information contained in this application and on all accompanying documents is true and correct.**

*Janet A. Becker* / Janet A. Becker / 4-12-17  
(Signature of Applicant) (Print name) (Date)

**The owner's signature below grants permission for the applicant to apply for the variance and permission for the Board of Appeals and City staff to inspect the subject building(s) and/or property.**

*Janet A. Becker* / Janet A. Becker / 4-12-17  
(Signature of Owner) (Print name) (Date)

The applicant acknowledges that this application is not deemed filed until dated and receipt acknowledged by a person authorized to receive the application. The applicant is entitled to receive a copy of the acknowledged application once it is officially reviewed and accepted.



**Hearings are usually held in City Hall Forum, City Hall, 100 State Street at 7:00 P.M.**

In order for your request to be heard and considered in a timely manner, you must submit the completed application and all accompanying documents to the Planning & Building Services Division for acceptance by the filing deadline date prior to a scheduled Board of Appeals meeting. This application must be submitted with the \$200.00 application fee. Applicants will also be charged a fee for mailing public notices at the rate of \$0.50 per notice. An invoice for this fee will be sent to the applicant, which is typically between \$5.00 and \$20.00.

**To be completed by Planning Staff:**  
 Filing fee: \$200.00 Amount paid: \$200.<sup>00</sup> Meeting date: May 9, 2017  
 Application accepted by: *Drew Pennington* Date: 4/12/17  
 No. of notices: \_\_\_\_\_ X mailing cost (\$0.50) = cost of mailing notices: \$ \_\_\_\_\_  
 Date Notice Published: \_\_\_\_\_ Date Notice Mailed: \_\_\_\_\_

This is a residential home built as a duplex in 1923. The structure has never been altered from the two units. I purchased the property in 1976, and hoped to sell it as the duplex this year. Now I've been notified that I cannot do so based on an ordinance that the city passed in 1998 or 1999. To the best of my knowledge there was no notification to myself as a holder of a rental certificate. The city continued to issue those certificates and do their inspections every 3 years without any problem until now.

In a letter dated March 1, 2017, I was notified that they learned in October that the second unit had been vacant nearly 10 years. Yes, I said that in a phone conversation regarding replacing both water meters. Still it took from October 2016 to March 2017 to notify me of any problem.

I spoke to Rudy Moreno twice, then spoke to Drew Pennington on March 21, and explained the situation. He mailed information to me for an appeal. He also suggested that I could contact a real estate agent, and get an opinion on how this would affect the possible sale of the house. Rosemary Dutter and Trisha Rose of Century 21 came to look at the house on April 3<sup>rd</sup>, and expressed their opinion that it would be very difficult to sell as a single family. It would be hard to find a party willing to put in the additional expense of trying to convert to a single family and that it would not look right if done. Ms. Dutter suggested asking the property assessor to come look at the building now since I am not going to do any alterations.

Ms. Nancy Warn was here on April 10<sup>th</sup>. She suggested that the doors to each unit in the front entry could possibly be removed to open things up. But that would leave side-by-side stairs to the second floor with a wall between them and the living areas, including the bedrooms. Not suitable for a family with children.

It was never my intention to keep the south apartment vacant for an extended period. That is why I kept up the rental permits and have continued paying the utilities, and water, sewer and garbage bills. So if conditions changed, I would be able to rent it without delay. But "Life Happens" and that did not become possible.

I invite any member of the Board of Appeals to call me at 608-362-4619, if they would like to see the property themselves. It is my hope that you will reconsider and return the property to the Use Variance for a duplex.

I appreciate your consideration in this matter.



March 1<sup>st</sup>, 2017

Janet A Becker  
1263 Eaton Ave  
Beloit, WI 53511

**Re: Loss of Nonconforming Status – 1263 Eaton Avenue; Parcel No. 12530660**

Janet A Becker:

The above-referenced property is located in an R-1B, Single-Family Residential (Zoning) District. The R-1B District is primarily intended to accommodate single-family detached dwellings. Previous use of this property as a two-family dwelling (duplex) constituted a legal nonconforming use of the property. According to Section 9.2 of the City of Beloit Zoning Ordinance, which adopts and incorporates Section 62.23(7)(h) of Wisconsin Statutes, once a nonconforming use is discontinued for a period of 12 months, any future use of the building and premises must conform to the Zoning Ordinance.

On October 13, 2016, the City of Beloit staff were informed that the south unit has been vacant for approximately 10 years. Therefore, all future use of the above-referenced property must conform to the Zoning Ordinance. Single-family dwellings are permitted in the R-1B district. The subject property may not be used or sold as a duplex.

Once this property has been brought into compliance with the Zoning Ordinance, please contact the City Assessor's Office at (608) 364-6670 to schedule a walk-through. The City has a variety of loan programs available that may be able to assist you in converting this property to a single-family dwelling. If you are interested, contact the Community & Housing Services Division at (608) 364-6713. If you have questions about the contents of this letter, contact the Planning & Building Services Division at (608) 364-6700. You have the right to appeal this determination in accordance with Section 2-1000 of the Zoning Ordinance.

Sincerely,

Rudy Moreno  
Planner II

- c: City Attorney's Office (EK, PB)  
Community & Housing Services Division (TD, JC)  
Assessor's Office (NW, LD)  
Treasurer's Office (KS)  
DPW (JS)  
Fire Department (GS)  
MUNIS  
File, Property



## NOTICE TO THE PUBLIC

April 25, 2017

To Whom It May Concern:

Janet A. Becker has filed an application requesting a Use Variance to Section 4-202 of the City of Beloit Zoning Ordinance to allow a Two-Family Dwelling (duplex) in an R-1B, Single-Family Residential District, for the property located at:

**1263 Eaton Avenue.**

Prior occupancy of two units within the building on the subject property constituted a legal nonconforming use of the property. This nonconforming status lapsed after one unit remained vacant for more than one year. If the requested variance is approved, the applicant will be able to legally occupy both units.

The following public hearing will be held regarding this requested Variance:

**Board of Appeals:** Tuesday, May 9, 2017, at 7:00 PM or as soon thereafter as the matter can be heard in The Forum, Beloit City Hall, 100 State Street.

**The public is invited to attend this hearing. We are interested in your opinion.**

You may appear at the hearing or submit a letter to the Board of Appeals, 100 State Street, Beloit, Wisconsin 53511, to either support or oppose the applicant's request.

The Board of Appeals may grant a "Use" Variance **only** if it finds that all of the following facts are true:

1. Granting of the variance will not be contrary to the public interest; and
2. Due to special conditions, a literal enforcement of the zoning ordinance will result in practical difficulty or unnecessary hardship; and
3. The variance is needed so that the spirit of the zoning ordinance will be observed, while public safety and welfare are secured; and
4. Substantial justice will be done by granting the variance; and
5. The property owner would have no reasonable use of the property without a variance.

**For additional information, contact Drew Pennington, AICP in the Planning & Building Services Division by phone at (608) 364-6711 or by email at [penningtond@beloitwi.gov](mailto:penningtond@beloitwi.gov).**

*Anyone bringing handouts to the meeting must bring ten (10) copies and submit them to the Recording Secretary before the meeting begins. Staff is unable to leave the meeting area to make copies.*

DOROTHY KITELINGER  
1256 HINSDALE AVE  
BELOIT, WI 535114712

SCHOOL DISTRICT OF BELOIT  
1633 KEELER AVE  
BELOIT, WI 53511

MARTIN KITELINGER  
1244 HINSDALE AVE  
BELOIT, WI 535114712

SAMUEL LOPEZ  
1610 KEELER AVE  
BELOIT, WI 535114714

LMS INVESTMENTS LLC  
505 E WEIRICK AVE  
BELOIT, WI 53511

DAWN BEHRENS  
1255 EATON AVE  
BELOIT, WI 535114739

HOLLY SOMERS  
1262 HINSDALE AVE  
BELOIT, WI 53511

MANUEL SILVA SR EDUARDO COBOS  
790 MERRILL ST  
BELOIT, WI 53511

DEBRA JONES  
1270 PARTRIDGE AVE  
BELOIT, WI 53511

ARMIDA MORALES  
1610 KEELER AVE  
BELOIT, WI 535114714

VOSS INVESTMENTS LLC  
2566 RIVERSIDE DR  
BELOIT, WI 53511

MICHAEL K & MARY C MCNULTY  
1245 EATON AVE  
BELOIT, WI 535114739

JANET BECKER  
1263 EATON AVE  
BELOIT, WI 535114739

MANUEL SILVA  
P O BOX 146  
SOUTH BELOIT, IL 61080

JESSE SARABIA  
1149 HARRISON AVE  
BELOIT, WI 53511

CAROLE BRATT-HANSON  
1251 EATON AVE  
BELOIT, WI 535114739

ANTHONY MEYER PROPERTIES LLC  
651 MILWAUKEE RD  
BELOIT, WI 53511