

CITY OF BELOIT

REPORT TO THE BELOIT BOARD OF APPEALS



Meeting Date: July 10, 2018

Agenda Item: 4

File Number: BOA-2018-01

Applicant: R.H. Batterman

Owner: Bryden Motors

Location: 548 Broad Street

Existing Zoning: C-3, Community Commercial & WPO, Wellhead Protection Overlay District

Existing Land Use: Auto Sales

Total Area: 2.21 Acres

Request:

R.H. Batterman, on behalf of Bryden Motors, has filed an application requesting a Variance to Section 5-416(c) of the City of Beloit Floodplain Zoning Ordinance to allow a commercial structure (service building) to be constructed below the *flood protection elevation* for the property located at 548 Broad Street.

Request Overview/Background Information:

The applicant has proposed the construction of a new 4,200 square-foot repair/service and carwash building in the middle of an existing display lot as shown on the attached site plan. The entire site is located in the 100-year (1% annual chance) floodfringe/floodplain. New commercial structures in the floodplain must be constructed at the *flood protection elevation*, which is two feet above the *base flood elevation*. The existing Bryden Motors building is at the *base flood elevation*, and the applicant has proposed the construction of the new building at the same/matching *base flood elevation* instead of the elevated level.

Key Issues:

- The requested variance is the first such request since the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM's) were updated in 2015.
- The FIRM that includes the subject property is attached to this report, and is known as Panel 0431E. Each FIRM includes the floodway as well as the floodplain, and includes the *base flood elevation*. The *base flood elevation* for the subject property is 745.5, which makes the *flood protection elevation* two feet higher at 747.5. The floodplain ordinance also requires an elevated 15-foot perimeter around buildings elevated to the *flood protection elevation*.
- According to the applicant, the existing Bryden Motors building has a floor elevation of 745.1, which makes the building a nonconforming structure. The applicant is not proposing an exact match, but is requesting the ability to construct the new repair/service building at the *base flood elevation* of 745.5.
- The application and supporting documents are attached to this report.
- The attached Public Notice was sent to nearby property owners and the DNR. Planning staff has not received any comments or concerns, but a comment from DNR staff is expected prior to the Board of Appeals hearing.
- According to the applicant, compliance with the *flood protection elevation* requirement is not feasible due to grade and stormwater considerations. According to the applicant, elevating the proposed service building two feet higher would create a driveway grade between the existing building and service building in excess of 10%, which would not be feasible. In addition, elevating the building to the *flood protection elevation* would redirect stormwater back towards the existing dealership building. As shown on the site plan, the area between the existing and proposed building will surface drain to two round inlets at 743.71 and 743.18. The existing storm sewer lateral under the existing building footprint may need to be relocated as part of this project, subject to City Engineer approval.
- The standards for granting a variance to the floodplain regulations are detailed in Section 5-446 of the Zoning Ordinance. The attached Findings of Fact evaluate this application against the standards.

Consistency with Comprehensive Plan:

The City's Comprehensive Plan classifies the subject property as appropriate for *Mixed Uses*. The underlying C-3 zoning classification is appropriate for this recommendation.

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**

Staff Recommendation:

The Planning & Building Services Division recommends **approval** of the requested Variance to Section 5-416(c) of the City of Beloit Floodplain Zoning Ordinance to allow a commercial structure (service building) to be constructed below the *flood protection elevation* for the property located at 548 Broad Street, based upon the attached Findings of Fact, subject to the following conditions:

1. The lowest floor of the commercial structure shall be at or above the *base flood elevation*.
2. If required by the City Engineer, the applicant shall relocate the existing stormwater lateral that conflicts with the footprint of the proposed building.
3. Prior to issuance of Building Permits for this project, the applicant shall submit detailed site & architectural plans for Planning staff review and approval.
4. Any major changes in the adopted conditions or use of this property shall be approved by the Board of Appeals by amending this Variance.

Attachments: Findings of Fact, FIRM, Site Plan, Grading & Drainage Plan, Application, and Public Notice.

FINDINGS OF FACT

Variance to Section 5-416(c) of the City of Beloit Floodplain Zoning Ordinance to allow a commercial structure (service building) to be constructed below the *flood protection elevation* for the property located at 548 Broad Street.

Under the standards for a Variance in Section 5-446(d) of the Zoning Ordinance, Planning staff finds:

- (a) Literal enforcement of the section provisions will cause unnecessary hardship; and
Literal enforcement of the floodplain provisions will prevent the applicant from constructing the proposed building, as the flood protection elevation would result in unworkable grades and stormwater drainage.
- (b) The hardship is due to adoption of the floodplain section and unique property conditions, not common to adjacent lots or premises. In such case the section or map must be amended; and
The hardship is due to the adoption of the FIRM's in 2015, decades after the subject property was developed. The applicant is attempting to improve their dealership through the addition of a dedicated quick maintenance/service building, which must be located near the dealership building with visibility along Broad Street. Nearly all of the applicant's properties are located in the floodplain, so utilization of the applicant's other properties would not necessarily avoid this issue.
- (c) The variance is not contrary to the public interest; and
The variance is not contrary to the public interest. The applicant will not be increasing the flood risk to adjacent properties, and will not be increasing costs for rescue and relief efforts. The subject property is located in the Wellhead Protection District, and staff has verified that this project does not involve new above- or below-ground oil tanks.
- (d) The variance is consistent with the purpose of this section in Section 5-403.
The variance, subject to a condition requiring the lowest floor to be at or above the base flood elevation, is consistent with the purpose of the ordinance in Section 5-403. The proposed building is similar to an accessory structure, and accessory structures are allowed at the base flood elevation.

In addition to the criteria above, to qualify for a variance under FEMA regulations, the following criteria must be met:

- (a) The variance may not cause any increase in the regional flood elevation;
- (b) Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
- (c) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the section.
The proposed variance meets criteria (a) and (c) above. Criteria (b) is somewhat arbitrary when applied to existing urban properties like the subject property. This criteria was clearly intended to apply to variances that would allow development of greenfield (undeveloped) properties adjacent to developed properties, and therefore it is not applicable to the subject property. By making all properties over a certain size ineligible for a variance, even in cases of good and sufficient cause, this standard may raise questions relating to due process and equal protection.

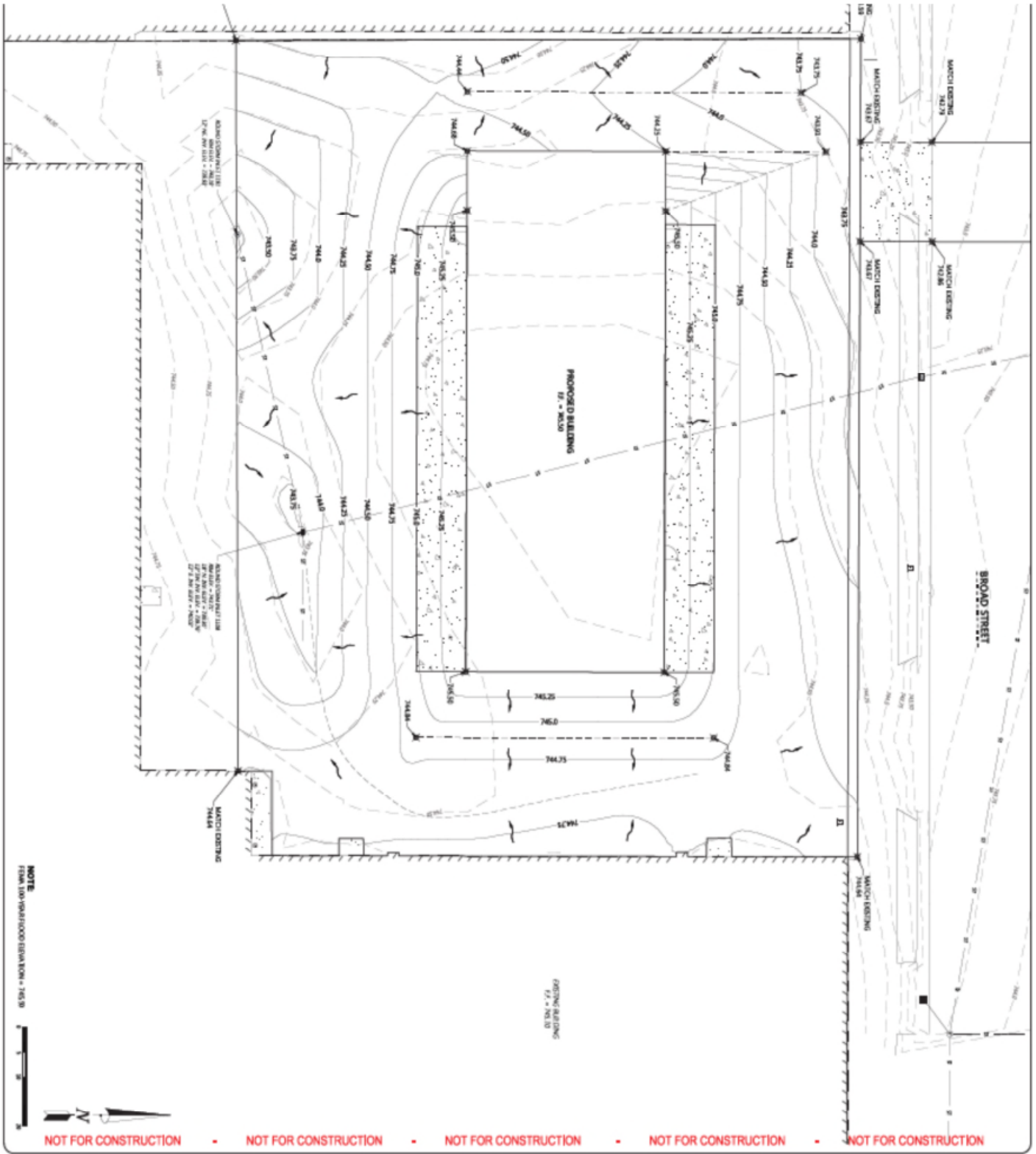
A variance shall not:

- (a) Grant, extend or increase any use prohibited in the zoning district.
- (b) Be granted for a hardship based solely on an economic gain or loss.
- (c) Be granted for a hardship which is self-created.
- (d) Damage the rights or property values of other persons in the area.
- (e) Allow actions without the amendments to this section or map(s) required in Section 5-450.
- (f) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

The requested variance will allow the construction of a new service building on an existing asphalt parking/display area adjacent to the existing dealership building. The hardship is due to the unworkable grade and drainage issues of this existing developed site, which was developed before the increased base flood elevations became effective in 2015. The proposed variance will not damage the rights or property values of others in the area, and no historic properties will be impacted. Therefore, Planning staff believes that the requested variance meets the above criteria.



1 OF 2	DESIGNED BY: SL DRAWN BY: LC CHECKED BY: - APPROVED BY: - PROJECT NO: 3388	BRYDEN MOTORS EXPRESS LANE SERVICE CENTER CITY OF BELOIT ROCK COUNTY, WISCONSIN <small>SITE LAYOUT EXHIBIT.DWG</small>	SITE LAYOUT PLAN <small>NOTE: DIMENSIONAL DATA IS NOT TO BE OBTAINED BY SCALING ANY PORTION OF THIS DRAWING.</small>	<small>ISSUANCE</small> SUBMIT APPLICATION: 2018-05-15 - - - -	 Batterman <small>engineers surveyors planners</small> 2857 Bernells Drive Beloit, Wisconsin 53511 608.365.4464 www.rhbatterman.com
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NOTE
FROM 100' FINISH FLOOR ELEVATION = 745.50



NOT FOR CONSTRUCTION - NOT FOR CONSTRUCTION - NOT FOR CONSTRUCTION - NOT FOR CONSTRUCTION - NOT FOR CONSTRUCTION

2 OF 2	DESIGNED BY: DL
	DRAWN BY: LC
	CHECKED BY: -
	APPROVED BY: -
	PROJECT NO: 12488

**BRYDEN MOTORS
EXPRESS LANE SERVICE CENTER
CITY OF BELOIT
ROCK COUNTY, WISCONSIN**

GRADING EXHIBIT CHWG

GRADING AND DRAINAGE PLAN

NOTE: DIMENSIONAL DATA IS NOT TO BE OBTAINED BY CALICULATING ANY PORTION OF THIS DRAWING

ISSUANCE	2018-05-11
REVISION	
DATE	
BY	
REASON	

Batterman
engineers surveyors planners

2857 Bethells Drive
608.385.4466

Beloit, Wisconsin 53511
www.rtbatterman.com

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-2018-01

1. Property Address: 548 Broad Street

2. Tax Parcel Number(s): 13540605

3. Legal description: Lot: 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 Block: 50 Subdivision: Original Plat
If property has not been subdivided, attach a copy of the complete legal description.

4. Owner of record: BMI LLC Phone: _____
548 Broad Street Beloit WI 53511
(Address) (City) (State) (Zip)

5. Applicant's Name: Batterman
2857 Barkells Beloit WI 53511
(Address) (City) (State) (Zip)
608-365-4464 / _____ / esubak@rhbatterman.com
(Office Phone #) (Cell Phone #) (E-mail Address)

6. Present zoning: C-3 Present use: Vehicle sales and service

7. Proposed use (if different): Same - Additional service building

8. Purpose of application: "Area" Variance "Use" Variance
 Appeal of order or decision of Administrative Official

9. Code from which relief is sought or appeal is taken:
 Zoning Ordinance Flood Plain Ordinance

10. State specific sections of code and Variance(s) requested: (Use separate sheet if necessary)
Requirement of Commercial Structures in the Flood plain to be placed
so the lowest floor is at or above the flood protection elevation.
(Flood protection elevation = base flood elevation + 2 feet)

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

(Continued on back)

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.

Elyn Subak / Elyn Subak / 6/14/2018
 (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.

Wendy Johnson / WENDY JOHNSON / 6.15.18
 (Signature of Owner) Operations Manager (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- Meeting date: July 10, 2018
 Application accepted by: *Debra Pennington* Date: 6/15/18
 No. of notices: _____ X mailing cost (\$0.50) = cost of mailing notices: \$ _____
 Date Notice Published: _____ Date Notice Mailed: _____

Because of existing buildings and roadways, to place a new building on this site at the flood protection elevation would not be possible. The existing building on this site is currently at an elevation of 745.1. The base flood elevation is 745.5 and the flood protection elevation is 747.5. If the proposed building is placed at an elevation any higher than the base flood elevation of 745.5 it will cause surface runoff to run toward the existing building on site. This site will also require drive lanes between the proposed building and the existing building. If the building elevation is placed higher than the base flood elevation the slopes between the proposed and existing building will not be traversable by automobiles as they will be upwards of 10%. The included submittal documents show a proposed first floor elevation of 745.5. This allows slopes to be 5% or less and will allow for a low point between the existing and proposed buildings for surface runoff to drain to.



Division of Planning and
Building Services
City Hall
100 State Street
Beloit, Wisconsin 53511

608-364-6700 (Office)
608-364-6609 (Fax)
beloitwi.gov
Equal Opportunity Employer

COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE TO THE PUBLIC

June 27, 2018

To Whom It May Concern:

R.H. Batterman, on behalf of Bryden Motors, has filed an application requesting a Variance to Section 5-416(c) of the City of Beloit Floodplain Zoning Ordinance to allow a commercial structure (service building) to be constructed below the flood protection elevation for the property located at:

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

Board of Appeals: Tuesday, July 10, 2018, 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 standards for granting a variance to the floodplain regulations are in Section 5-446 of the Zoning Ordinance.

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.

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.