

PUBLIC NOTICE & AGENDA BELOIT BOARD OF APPEALS City Hall Forum - 100 State Street, Beloit, WI 53511 7:00 PM Tuesday, September 10, 2024

- 1. CALL TO ORDER AND ROLL CALL
- 2. MINUTES
 - 2.a. Consideration of the minutes of the June 11, 2024 Board of Appeals Meeting Attachment
- 3. APPEALS No Appeals have been submitted for review by the Board.
- 4. VARIANCES
 - 4.a. Consideration of an application from Jeff A. Holzhauer on behalf of Beloit Memorial Hospital for an Area Variance to Section 8-300(h)(1)(a) of the City of Beloit Zoning Ordinance to allow a tenfoot high fence in the front or street-side setback area; Section 8-300(h)(3)(a) of the City of Beloit Zoning Ordinance to allow a tenfoot high fence in the buildable area of a lot; Section 8-300(i)(2) of the City of Beloit Zoning Ordinance to allow a tenfoot high fence in the buildable area of a lot; Section 8-300(i)(2) of the City of Beloit Zoning Ordinance to allow a zero percent open fence in the front or street-side setback area; and Section 7.1 of the City of Beloit Zoning Ordinance to allow a structure in the street-side setback area; all in a PLI, Public Lands and Institutions District, for the property located at 1969 W. Hart Road. Attachment
- 5. SUCH OTHER MATTERS AS MAY BE AUTHORIZED BY LAW No other matters for review by the Board.
- 6. ADJOURNMENT
- ** Please note that, upon reasonable notice, at least 24 hours in advance, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information to request this service, please contact the City Clerk's Office at 364-6680, 100 State Street, Beloit, WI 53511.



MINUTES BELOIT BOARD OF APPEALS City Hall Forum, 100 State Street, Beloit, WI 53511 7:00 PM Tuesday, June 11, 2024

1. CALL TO ORDER AND ROLL CALL

A meeting of the City of Beloit Board of Appeals was held on Tuesday, June 11, 2024, in the Forum of Beloit City Hall, 100 State Street. Chairperson David Baker called the meeting to order at 7:05 PM. TJ Nee, Director of Planning and Building Services, called the roll. Present were: David Baker, Susan Adams, Mark Preuschl and John Petersen.

2. ELECTION OF OFFICERS

2.a. Election of Chairperson

Adams nominated Baker as Chairperson, which was seconded by Preuschl. Baker accepted the nomination. The nomination passed (4-0), voice vote.

2.b. Election of Vice-Chairperson

Adams nominated Petersen as Vice-Chairperson, which was seconded by Baker. Petersen accepted the nomination. The nomination passed (4-0), voice vote.

2.c. Election of Second Vice-Chairperson

Petersen nominated Preuschl as Second Vice-Chairperson, which was seconded by Baker. Preuschl accepted the nomination. The nomination passed (4-0), voice vote.

3. MINUTES

3.a. Consideration of the Minutes of the July 11, 2023 Board of Appeals Meeting Adams made a motion to approve the September 12, 2023 minutes as submitted. Preuschl seconded the motion. The motion passed (4-0), voice vote.

4. APPEALS

No appeals were submitted for review by the Board.

5. VARIANCES

No variances were submitted for review by the Board.

6. SUCH OTHER MATTERS AS MAY BE AUTHORIZED BY LAW

No other matters for review by the Board.

7. ADJOURNMENT

Adams made a motion to adjourn, which was seconded by Preuschl. The meeting adjourned at 7:13 PM.

David Baker, Chairperson

CITY OF BELOIT REPORTS TO BOARD OF APPEALS



Meeting Date: September 10, 2024	Agenda Item: 4a	File Number: BOA-2024-01
Applicant: Jeff A. Holzhauer	Owner: Beloit Memorial Hospital	Location: 1969 W. Hart Road
Existing Zoning: PLI, Public Lands and Institutions District	Existing Land Use: Medical Facility	Parcel Size: 23.2 acres
Request.		

Jeff A. Holzhauer on behalf of Beloit Memorial Hospital is requesting an Area Variance to Section 8-300(h)(1)(a) of the City of Beloit Zoning Ordinance to allow a ten-foot high fence in the front or street-side setback area; Section 8-300(h)(3)(a) of the City of Beloit Zoning Ordinance to allow a ten-foot high fence in the buildable area of a lot; Section 8-300(i)(2) of the City of Beloit Zoning Ordinance to allow a zero percent open fence in the front or streetside setback area; and Section 7.1 of the City of Beloit Zoning Ordinance to allow a structure in the street-side setback area; all in a PLI, Public Lands and Institutions District, for the property located at 1969 W. Hart Road.

Request Overview/Background Information:

The applicant has proposed the construction of a new bulk oxygen storage tank enclosure along Huebbe Parkway north of the employee parking lot and adjacent to an existing equipment enclosure of similar design. The existing bulk oxygen area, which cannot accommodate the new bulk oxygen system, is located in a part of the Hospital between the employee parking lot and the shipping and receiving dock. Setbacks for buildings and structures in the PLI, Public Lands and Institutions District are subject to the Density/Intensity and Dimensional Standards applicable in the most restrictive adjacent district, which in this case is the R-1A, Single Family Residential District. The residential property at 2100 E. Huebbe Parkway just east of the Hospital is zoned R-1A. The streetside setback in R-1A is 30 feet, which is therefore the streetside setback for the Hospital property along Huebbe Parkway (W. Hart Road would be considered the front yard for setback purposes, which would also be 30 feet).

The bulk oxygen tanks are proposed to be 20 feet from the property line, and located on an open-air slab with a screen wall for aesthetics and security. Since the tanks are considered structures based on the definition of "structure" in the Zoning Ordinance, which is "Anything constructed or erected, the use of which requires a permanent or temporary location on or in the ground, stream bed or lake bed, which includes, but is not limited to, objects such as buildings, factories, sheds and cabins, mobile homes, gas or liquid storage tanks, bridges or culverts," a variance would be required to install the tanks 20 feet from the property line.

Additionally, the fence enclosure is proposed to be of similar design and material as the adjacent equipment enclosure, but lower. According to the applicant, the adjacent enclosure is over 13 feet high from grade. The proposed fence enclosure will also completely screen the equipment and is proposed to be 10 feet high. In actuality, the enclosure is not zero-percent open, and the extent to which it can be seen through, according to the applicant, depends on the height of the individual and distance from the enclosure. For all intents and purposes however, it effectively screens the equipment completely, and so it is essentially zero percent open for purposed of the variance request. According to the applicant, the equipment components vary in height from 7'-11" to 8'-11-1/2" tall. Because a portion of the proposed fence enclosure is within the 30-foot streetside setback area, ordinance requires that it be no higher than four feet, and that it be at least 50 percent open. Beyond the 30-foot setback, the enclosure can be up to eight feet tall and completely sight-obscuring.

The applicant indicated that the bulk oxygen tank is being proposed in this location after researching other locations on the Huebbe Parkway side of the Hospital. The following determining factors led the design to its current position.

- Existing buried site utilities (public and private) were reviewed to ensure the new location did not interfere or be located above. This was required to allow for future access, service, and code requirements.
- The bulk oxygen tank system is refilled by the Hospital's bulk oxygen supplier by a tanker truck (semi) that needs to enter and exit the site without interference and with drive through ability. The existing staff parking lot allows for the required clearances for the tanker truck to enter, refill, and exit from Huebbe Parkway, and allows the activity to not interfere with parking lots utilized by patients and/or visitors which would be a safety concern.
- The location of the existing main oxygen piping is in proximity to the proposed location to allow for the new

system to tie in with less disruption and improved access.

• Locating the bulk oxygen system in the proposed location allows for campus flexibility to accommodate future campus upgrades, expansions, etc."

Key Issues:

- 1. Section 8-300(h)(1)(a) of the City of Beloit Zoning Ordinance requires that fences installed in front setback or street-side setback areas shall comply with this section and with the following requirements: In residential, commercial and Public Lands and Institutional (PLI) zoning districts, fence height shall not exceed four feet.
- Section 8-300(h)(3)(a) of the City of Beloit Zoning Ordinance requires that fences installed in buildable area of a lot shall comply with this section and with the following requirements: In residential, commercial and Public Lands and Institutional (PLI) zoning districts, fence height shall not exceed eight feet.
- 3. Section 8-300(i)(2) of the City of Beloit Zoning Ordinance requires that fences located in front setback and streetside setback areas shall be 50 percent open (see-through) and be of split rail, wrought iron or picket design.
- 4. The proposed fence is ten feet high and zero percent open (see-through).
- 5. Section 7.1 of the City of Beloit Zoning Ordinance requires a 30-foot street-side setback for structures. The proposed oxygen tanks are 20 feet from the property line, and the proposed fence is about 15.9 feet from the property line. Note that beyond the building setback areas, fences can be 8 feet high in the PLI District.
- 6. The attached Public Notice was sent to adjacent property owners in the City. As of this writing, Planning staff has not received any comments or concerns.
- 7. Wisconsin Supreme Court Standards for Area Variances The Wisconsin Supreme Court has established a standard for granting variances to zoning regulations. For "area" variances, the property owner and/or applicant has the burden of proving that the standard for granting an area variance has been met. In order to grant an area variance, the Board of Appeals must determine that all of the following criteria of section 2-903 are satisfied:
 - a. Compliance with the strict letter of the Zoning Ordinance regulating area, setbacks, frontage, height, bulk or density would create a hardship by either:
 - (1) unreasonably preventing the owner from using the property for a permitted purpose; or
 - (2) rendering conformity with such regulations unnecessarily burdensome.
 - b. The hardship is unique to the property.
 - c. The hardship is not self-created.
 - d. The variance will not undermine the purpose of the ordinance or the public interest.
 - e. The variance will not permit a use of land that substantially changes the character of the neighborhood.
- 8. The attached Findings of Fact evaluate this application against the above standards.

Consistency with the Comprehensive Plan

• The Comprehensive Plan recommends *Community Services* for the property, which the Hospital is considered and the property is zoned PLI, Public Lands and Institutions District, consistent with the Comprehensive Plan.

Sustainability

If applicable, briefly comment on the environmental, economic, and/or social sustainability of this policy or program. Consider how current needs are met without compromising the ability of future generations to meet their own needs. Write N/A if not applicable

N/A

Staff Recommendation

• The Planning & Building Services Division recommends <u>approval</u> of an area Variance to Section 8-300(h)(1)(a) of the City of Beloit Zoning Ordinance to allow a ten-foot high fence in the front or street-side setback area; Section 8-300(h)(3)(a) of the City of Beloit Zoning Ordinance to allow a ten-foot high fence in the buildable area of a lot; Section 8-300(i)(2) of the City of Beloit Zoning Ordinance to allow a zero percent open fence in the front or street-side setback area; and Section 7.1 of the City of Beloit Zoning Ordinance to allow a structure in the street-side setback area; all in a PLI, Public Lands and Institutions District, for the property located at 1969 W. Hart Road., based upon the established criteria of Section 2-903 of the Zoning Ordinance and the attached Findings of Fact.

Fiscal Note/Budget Impact

N/A

Attachments

Findings of Fact, Location Map, Google Street View, BOA Application, Applicant Drawing Submittals, Public Notice, and Mailing List

CITY OF BELOIT FINDINGS OF FACT

The applicant's requests are for an Area Variance to Section 8-300(h)(1)(a) of the City of Beloit Zoning Ordinance to allow a ten-foot high fence in the front or street-side setback area; Section 8-300(h)(3)(a) of the City of Beloit Zoning Ordinance to allow a ten-foot high fence in the buildable area of a lot; Section 8-300(i)(2) of the City of Beloit Zoning Ordinance to allow a zero percent open fence in the front or street-side setback area; and Section 7.1 of the City of Beloit Zoning Ordinance to allow a structure in the street-side setback area; all in a PLI, Public Lands and Institutions District, for the property located at 1969 W. Hart Road.

Under the standards for Area Variances in Section 2-903 of the Zoning Ordinance, Planning staff finds:

- (a) Compliance with the strict letter of the Zoning Ordinance regulating area, setbacks, frontage, height, bulk or density **would** create a hardship by either:
 - (1) Unreasonably preventing the owner from using the property for a permitted purpose; or
 - (2) Rendering conformity with such regulations unnecessarily burdensome.

Compliance with the strict letter of the Zoning Ordinance regulating fence height, percentage of the fence that is open within the street-side setback (30-feet) of Huebbe Parkway, and location of the bulk oxygen storage tanks in relation to the setback area would be unnecessarily burdensome for the property owner in this instance. Generally, it is not burdensome to build a fence to a height that meets code, maintain a 50 percent open fence within front or street-side setback areas, and meet the streetside setback for structures. In fact existing structures on the property more than meet the setback requirements of the R-1A, Single Family Residential Zoning District which apply to the PLI District in this case. However, a physical hardship does exist to install a fence enclosure and the bulk oxygen tanks in a location other than that which is proposed that complies with the standards of the R-1A District, and effectively serves the Hospital. As noted by the applicant, this location is ideal if not necessary to 1) avoid existing buried site utilities (public and private), 2) because the existing staff parking lot allows the bulk oxygen tanker truck supplier the required clearances to enter, refill, and exit from Huebbe Parkway without interfering with patient and/or visitor parking areas, 3) the location of the existing main oxygen piping is in proximity to the proposed location to allow for the new system, and 4) locating the bulk oxygen system in the proposed location allows flexibility for future campus upgrades and expansions.

(b) The hardship **is** unique to the property.

The Hospital and overall Hospital campus in general are unique. It is the only medical facility in the City zoned as Public Lands and Institutions given its unique nature and community service land use. All other medical facilities in the City are zoned commercial, which does not change the maximum fence height requirement, but does change the streetside setback requirement from 30 feet for the Hospital, to 15 feet for any other medical facility zoned commercial such as Beloit Clinic right across the street from the proposed bulk oxygen storage tanks. The location of the proposed bulk oxygen storage tanks would meet a 15-foot setback, if a commercial standard, as opposed to a singlefamily residential standard applied to the Hospital, as it would any other medical facility in the City. Furthermore, unique site constraints such as topographical, existing structures, existing parking, existing equipment, the general location at the back of the Hospital where such equipment is ideally located, and the required proximity of the tanks to this part of the Hospital hinder the ability to locate the tanks elsewhere, including in a location behind the 30-foot setback area where a completely site-obscuring fence would meet code. Because of the 30-foot setback, which again is unique to the Hospital as opposed to any other medical facility, the fence enclosure is supposed to be 50 percent open by ordinance; however, the Architectural Review and Landscape Code requires that amongst other things, all ground level mechanical equipment, storage areas, service vards, work areas, storage tanks and other areas which tend to be unsightly shall be screened from view from public streets, adjacent properties and the subject property by a fence, berm, wall or landscaping material. As such, if a variance is not granted to allow up to a 100-percent siteobscuring fence, an exception to the Architectural Review and Landscape Code, which is processed through Plan Commission and City Council, may be needed if the bulk oxygen storage tanks are not adequately screened from public view. This requirement also necessitates the desire and need to increase the fence height to 10 feet from 4 feet in the streetside setback area, and from 8 feet in the buildable area of the lot to fully screen the equipment.

(c) The hardship **is not** self-created.

The hardship is not self-created. Although the proposed location of the bulk oxygen storage tanks created the need for variances, the variances needed in regard to tank setbacks and fence enclosure opacity are a result of the Zoning Ordinance applying residential standards to the Hospital as opposed to commercial standards, which it would for any other medical facility. Additionally, the desire and need to screen the equipment with a 10-foot fence as opposed to a four or eight-foot fence is in part created by City Ordinances that require such equipment to be screened from public view. Lastly, unique site constraints that existed before the current Zoning Ordinance, especially the required proximity of the tanks to this part of the Hospital hinder the ability to locate the tanks elsewhere.

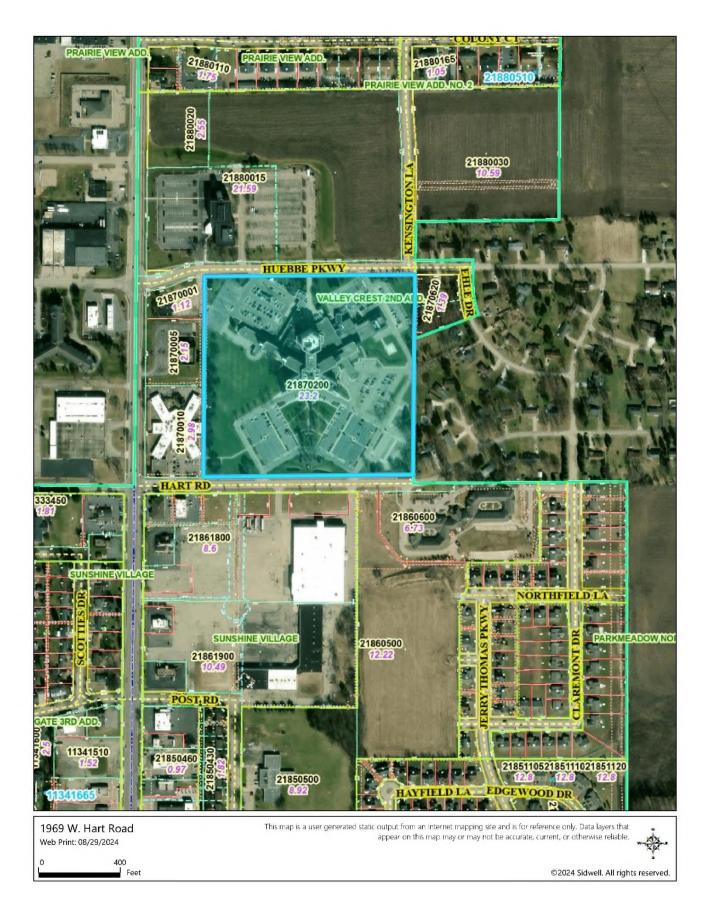
(d) The variance **will not** undermine the purpose of the ordinance or the public interest.

If granted, the variances will not undermine the purpose of the ordinance. The Zoning Ordinance, and the dimensional and development standards contained within it, are intended to protect the public health, safety, morals, comfort, convenience, and general welfare of existing and future residents of the City in part by "zoning all properties with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City" and by "fixing reasonable standards to which buildings and structures shall conform." However, the setback and fence opacity standards applied to the Hospital are unique to the Hospital because it is not zoned commercial like every other medical facility in the City. Furthermore, a variance to allow a 10-foot fence to screen the bulk oxygen storage tanks from public view is in the public interest and also in agreement with other City ordinances including the Architectural Review and Landscape Code.

(e) The variance **will not** permit a use of land that substantially changes the character of the neighborhood.

The applicant is not proposing a change in land use. Hospitals, and the facilities needed to operate a hospital such as bulk oxygen are allowed in the PLI, Public Lands and Institutions District. Allowing up to a 100 percent sight-obscuring fence in this location, which for any other medical facility in the City would meet code, and allowing it to be 10 feet high to effectively screen the bulk oxygen tanks from public view, will not set a precedence given the unique nature of the Hospital and overall Hospital campus, and not change the character of the neighborhood. The proposed bulk oxygen storage tanks and enclosure is close to the center of the medical campus that includes Beloit Memorial Hospital and Beloit Clinic. The most direct view of the enclosure from an adjacent property is from Beloit Clinic, and is otherwise viewable by travelers on Huebee Parkway. It is not in close proximity to, nor does it impact residential properties.

Location Map



Google Street View of Proposed Bulk Oxygen Storage Tank Location



CITY of BELOIT Planning & Building Services Division

		WI 53511 Phone: ((608) 364-6700 Fa	x: (608) 364-6609
	Boar	rd of Appeals App	lication Form	
(P	lease Type or Print)		File Number:	
1.	Property Address: 1969	N. Hart Rd, Beloit WI, 5351	1	
2.	Tax Parcel Number(s):2			
3.	Legal description: Lot:	× Block:	Subdivision:	
	If property has not bee	n subdivided, attach a co	py of the complete lega	l description.
4.	Dalait		Phone:	1
	1969 W. Hart Rd	Beloit	WI	53511
	(Address)	(City)	(State)	(Zip)
5.	Applicant's Name: Jef	f A. Holzhauer		
	333 E. Chicago Street	Milwaukee	Wisconsin	53202
	(Address)	(City)	(State)	(Zip)
	414-291-8104	/ 262-347-5157	/ jeffreyh@eua	a.com
	(Office Phone #)	(Cell Phone #)	(E-mail Address)	
6.	Present zoning: PLI		Hospital	
7.	Proposed use (if differen	ıt): <u>N/A</u>		
8.	Purpose of application:	(💢) "Area" Varian	ce () "Use" Var	iance
	() Administrative App	eal () Administrative	e Appeal – Contested (Case Proceedings
9.	Code from which relief i	s sought or appeal is tal	ken:	
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	State specific sections of	0) Floodplain Ordinan	
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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.

JAA. Has	/ Jeff A. Holzhauer	/ 7/30/2024	
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.

Thomas McCo	awley	/ Thomas McCawley	/07/24/2024	
(Signature of Owner)	0	(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.

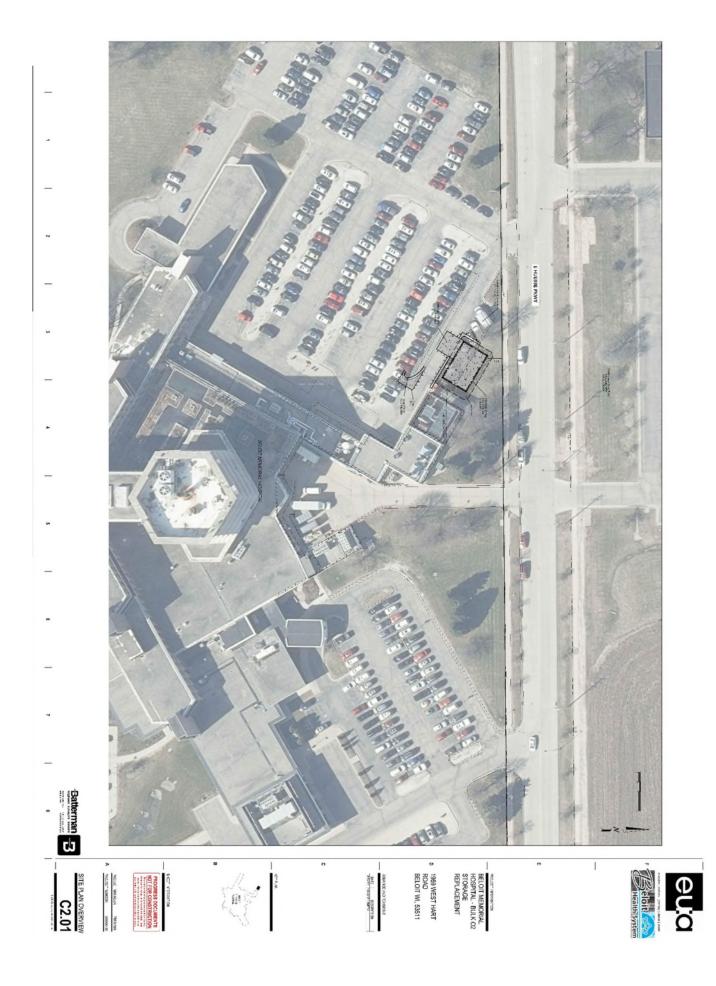
Hearings are usually held in City Hall Forum, City Hall, 100 State Street at 7:00 P.M.

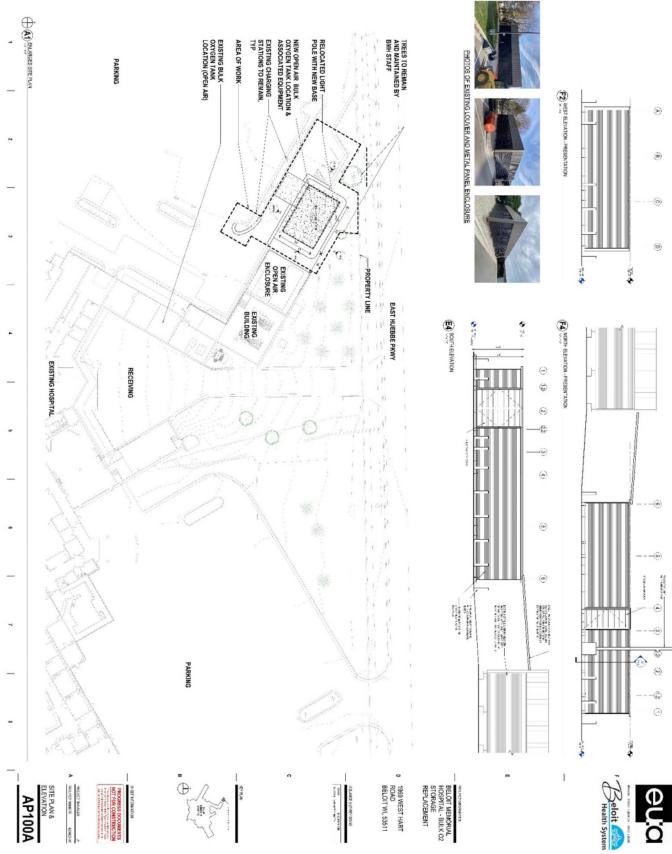
In order for your request to be heard and considered in a timely manner, you must submit the completed application and all accompanying documents to the Planning & Building Services Division for acceptance by the filing deadline date prior to a scheduled Board of Appeals meeting. This application must be submitted with the \$300.00 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: \$300.00 Amount paid: Meeting date:		
Application accepted by:	_Date:	
No. of notices:X mailing cost (\$0.50	0) = cost of mailing notices: \$	
Date Notice Published:	Date Notice Mailed:	

Planning Form No. 42 Established: August 1998

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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

August 29, 2024

To Whom It May Concern:

The City of Beloit Board of Appeals has received an application from Jeff A. Holzhauer on behalf of Beloit Memorial Hospital requesting an Area Variance to Section 8-300(h)(1)(a) of the City of Beloit Zoning Ordinance to allow a ten-foot high fence in the front or street-side setback area; Section 8-300(h)(3)(a) of the City of Beloit Zoning Ordinance to allow a ten-foot high fence in the buildable area of a lot; Section 8-300(i)(2) of the City of Beloit Zoning Ordinance to allow a zero percent open fence in the front or street-side setback area; and Section 7.1 of the City of Beloit Zoning Ordinance to allow a structure in the street-side setback area; all in a PLI, Public Lands and Institutions District, for the property located at:

1969 W. Hart Road

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

Board of Appeals: Tuesday, September 10, 2024, at 7:00 PM or as soon thereafter as the matter can be heard in the City Hall Forum, 100 State Street.

We are interested in your opinion. You may mail your comments to the attention of TJ Nee at 100 State Street, Beloit, Wisconsin 53511 or via email to <u>neet@beloitwi.gov</u>. You may also call (608) 364-6711 to provide your comments over the phone.

You may 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 an "Area" Variance <u>only</u> if it finds that all of the following facts are true:

- a. Compliance with the strict letter of the Zoning Ordinance regulating area, setbacks, frontage, height, bulk or density would create a hardship by either:
 - 1. unreasonably preventing the owner from using the property for a permitted purpose; or
 - 2. rendering conformity with such regulations unnecessarily burdensome.
- b. The hardship is unique to the property.
- c. The hardship is not self-created.
- d. The variance will not undermine the purpose of the ordinance or the public interest.
- e. The variance will not permit a use of land that substantially changes the character of the neighborhood.

For more information, contact TJ Nee at neet@beloitwi.gov or (608) 364-6711.

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