



**PUBLIC NOTICE & AGENDA
BOARD OF APPEALS
City Hall Forum - 100 State Street, Beloit, WI 53511
7:00 PM
Tuesday, November 10, 2020**

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Members of the media or the public may participate in the open session portion of this agenda by calling (571) 317-3122, access code 252-095-533. All participants' phones will be muted. Attendance at the meeting in person will be limited. If you would like to provide comments for any of the items on the agenda, please submit those to planning@beloitwi.gov by 12:00 noon on Tuesday, November 10, 2020.

1. CALL TO ORDER AND ROLL CALL
2. APPROVAL OF MINUTES
 - 2.a. Review and Consideration of the Minutes of the September 8, 2020 Meeting.
[Attachment](#)
3. PUBLIC HEARINGS (VARIANCE REQUESTS)
 - 3.a. Consideration of an application from Richard Bergmann requesting an Area Variance to Sections 6.3.3(b)(1) & 8-107(e) of the City of Beloit Zoning Ordinance to allow a carport within a side setback area in an R-1B, Single-Family Residential District, for the property located at 1343 Highland Avenue.
[Attachment](#)
4. 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
CITY OF BELOIT BOARD OF APPEALS
Meeting of September 8, 2020**

A Meeting of the City of Beloit Board of Appeals was held on Tuesday, September 8, 2020, in The Forum of Beloit City Hall, 100 State Street. Chairperson Dustin Gronau called the meeting to order at 5:00 PM.

1. Roll Call

Director of Planning & Building Services Drew Pennington called the roll. Present were: Merlin Bussan, Dustin Gronau, John Petersen, David Baker, Kara Purviance Hawes, and Felipe Rodriguez.

2. Election of Officers

a. Nomination and election of Chairperson

Mr. Gronau nominated Mr. Petersen for Chairperson. Mr. Petersen accepted the nomination. The Board voted unanimously to elect Mr. Petersen as the Chairperson.

b. Nomination and election of Vice-Chairperson

Mr. Gronau nominated Ms. Purviance Hawes for Vice-Chairperson. Ms. Purviance Hawes accepted the nomination. The Board voted unanimously to elect Ms. Purviance Hawes as the Vice-Chairperson.

c. Nomination and election of 2nd Vice-Chairperson

Mr. Gronau nominated himself for 2nd Vice-Chairperson. The Board voted unanimously to elect Mr. Gronau as the 2nd Vice-Chairperson.

3. Approval of the Minutes of the December 18, 2018 Meeting

Mr. Bussan made a motion to approve the December 18, 2018 Minutes as submitted. Ms. Purviance Hawes seconded the motion. The motion passed unanimously, roll call vote.

4. Public Hearings (Variance Requests)

a. Consideration of an application from Peter Payne for an Area Variance to Section 7.1 of the City of Beloit Zoning Ordinance to allow the subdivision of a property with two existing residential structures into two lots - each less than 6,000 square feet in area in an R-1B, Single-Family Residential District, for the property located at 1435 E. Broad Street.

Mr. Pennington reviewed the staff report and recommendation. Mr. Bussan asked Mr. Pennington how the property lost its nonconforming status. Mr. Pennington stated that the units were vacant for more than one year. Mr. Petersen asked if the duplex status could be restored, and Mr. Pennington stated that it could not without a Use Variance.

The public hearing was opened. Mr. Peter Payne, 9315 74th Street, Kenosha, WI, identified himself as the applicant. Co-owner Mary Payne also called into the meeting but did not offer testimony. Mr. Payne explained his rationale for seeking the variance. Mr. Bussan asked Mr. Payne if he intended to restore the duplex status of each structure, and Mr. Payne stated that he did not. The public hearing was closed.

Mr. Petersen made a motion to approve the requested variance based upon the findings in the staff report. Ms. Purviance Hawes seconded the motion. The motion passed unanimously, roll call vote.

- b. Consideration of an application from Dennis Pounds for an Area Variance to Section 7.1 of the City of Beloit Zoning Ordinance to allow a building addition within the front setback area in an R-1B, Single-Family Residential District, for the property located at 1239 Porter Avenue.

Mr. Pennington reviewed the staff report and recommendation. Mr. Bussan asked Mr. Pennington if staff's recommendation was primarily due to the unusual shape of the subject property, and Mr. Pennington agreed. Mr. Petersen asked Mr. Pennington if the existing house was nonconforming with respect to setbacks. Mr. Pennington confirmed that, and noted that the requested variance would make the house more nonconforming.

The public hearing was opened. Mr. Dennis Pounds, 1239 Porter Avenue, identified himself as the applicant. The public hearing was closed.

Mr. Petersen made a motion to approve the requested variance based upon the findings in the staff report. Mr. Baker seconded the motion. The motion passed unanimously, roll call vote.

5. Adjournment

Mr. Petersen made a motion to adjourn, which was seconded by Ms. Purviance Hawes. The meeting adjourned at 5:35 PM.

Respectfully submitted,
Drew Pennington, AICP



REPORT TO THE BELOIT BOARD OF APPEALS

Meeting Date: November 10, 2020

Agenda Item: 3(a)

File Number: BOA-2020-03

Applicant: Richard Bergmann

Owner: Richard Bergmann

Location: 1343 Highland Avenue

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

Existing Land Use: Single-Family Dwelling

Parcel Size: 0.14 Acre

Request:

Richard Bergmann has filed an application requesting an Area Variance to Sections 6.3.3(b)(1) & 8-107(e) of the City of Beloit Zoning Ordinance to allow a carport within a side setback area in an R-1B, Single-Family Residential District, for the property located at 1343 Highland Avenue.

Request Overview/Background Information:

In late 2019, the applicant constructed a carport without a Building Permit within a side setback area. The applicant is seeking a variance to allow the carport to remain in place. The applicant was directed to remove the carport, but has received two citations for non-compliance. The applicant has pleaded not guilty to both citations and has a pre-trial conference scheduled in December. The Board's role is not to determine the applicant's guilt or innocence on the permit matter, but rather evaluate whether the criteria for obtaining an Area Variance have been met.

Key Issues:

- Section 6.3.3(b)(1) of the Zoning Ordinance states that attached accessory structures are subject to the same setbacks that apply to the principal building (house). In the R-1B District, the interior side setback is at least 5 feet. The total of both side setbacks must equal 20% of lot width or 20 feet, whichever is less. The carport in question is essentially right on the property line with a zero setback.
 - Section 8-107(e) of the Zoning Ordinance reiterates that carports are subject to applicable setback requirements.
 - The subject property is 0.14 acre in size and includes a 1,413 square-foot single-family home and 1-stall detached garage. The house was constructed in 1946 on a standard 50-foot City lot.
 - The attached Public Notice was sent to nearby property owners within 150 feet. As of this writing, Planning staff has not received any comments or concerns.
 - **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.
 - The attached Findings of Fact evaluate this application against the above standards.
-

Consistency with Comprehensive Plan:

- The Comprehensive Plan recommends Single-Family Residential – Urban uses and a zoning district classification of R-1B for the subject property.
-

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 **consideration** of the requested Area Variance to Sections 6.3.3(b)(1) & 8-107(e) of the City of Beloit Zoning Ordinance to allow a carport within a side setback area in an R-1B, Single-Family Residential District, for the property located at 1343 Highland Avenue, 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, Photos, Application, Sketch, Public Notice, and Mailing List.

CITY OF BELOIT

FINDINGS OF FACT

Area Variance to Sections 6.3.3(b)(1) & 8-107(e) of the Zoning Ordinance to allow a carport within a side setback area in an R-1B, Single-Family Residential District, for the property located at 1343 Highland Avenue.

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.

According to the applicant, the inability to have a carport would prevent safe travel to/from vehicles and/or the garage in the winter months due to snow & ice accumulation. The Board should evaluate this argument and whether it prevents the owner from using the property, creates an unnecessary burden, or simply creates inconvenience.

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

There is nothing unique about the subject property in terms of size & layout. While there is not space for a carport that meets setbacks, that fact is shared by nearly all of the neighboring properties on the block. The Board should evaluate whether the subject property is unique in terms of size, topography, or other physical characteristics (e.g. steep slopes, wetlands, floodplains, etc.).

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

According to the Wisconsin Supreme Court in Arndofer vs. Sauk County Board of Adjustment (1991), a condition personal to the landowner, such as inconvenience, is not a hardship. The Board should evaluate whether the inability to have a carport creates true hardship or a mere inconvenience given the applicant's personal circumstances. While the case of whether or not the applicant needed a permit will be settled in Municipal Court, the plain facts of this Variance case demonstrate that the carport has already been constructed, and is undeniably in the side setback area.

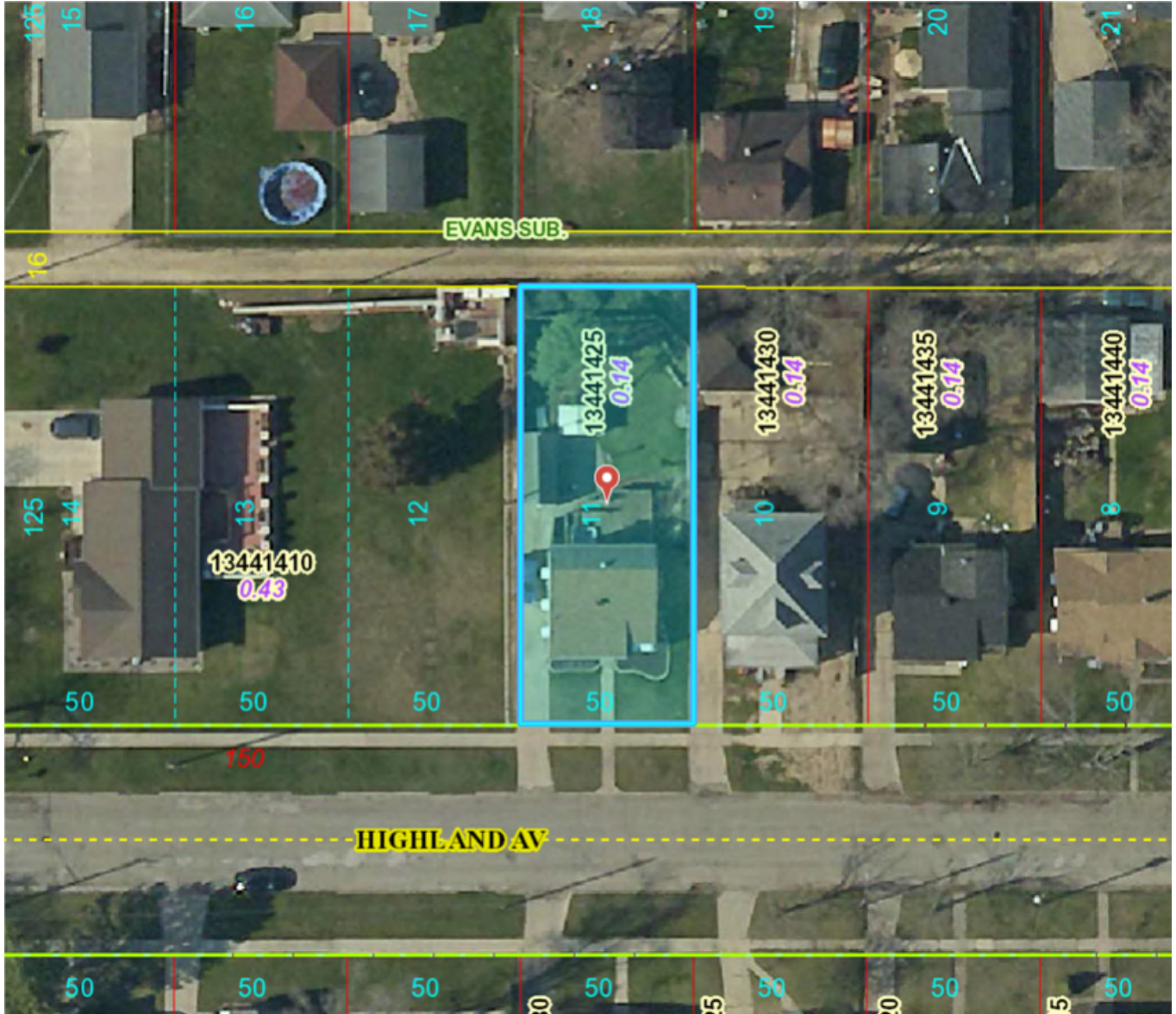
- (d) The variance will not undermine the purpose of the ordinance or the public interest.

The Board should evaluate whether allowing the carport will set a precedent for future variance requests, particularly in cases where structures are constructed in advance of any approvals or permits.

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

The carport is adjacent to the largest property on the block, which actually faces McKinley Avenue and consists of three 50-foot lots along Highland Avenue (Lots 12-14). The carport is right on the applicant's lot line, but this is mitigated by the size of the neighboring property and the distance to the neighbor's house – more than 90 feet. The Board should evaluate whether the zero-setback carport might change the character of the neighborhood if individual houses either existed or were proposed on the adjacent 50-foot Lot 12 since that is theoretically possible.

Location Map



Photos (Provided by Applicant)





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-2020-03

1. Property Address: 1343 Highland Ave
2. Tax Parcel Number(s): 13441425
3. Legal description: Lot: L-11 Block: EVANS SUB BEING PART OF B Subdivision: 5 WILLARD AND GOODHUES ADD

If property has not been subdivided, attach a copy of the complete legal description.

4. Owner of record: Richard A. + Joy L. Bergmann Phone: 608-290-0904 cell

1343 Highland Ave Beloit WI 53511
(Address) (City) (State) (Zip)

5. Applicant's Name: Richard A. Bergmann

1343 Highland Ave Beloit WI 53511
(Address) (City) (State) (Zip)

NA 1 608-290-0904 rickbergmann@charter.net
(Office Phone #) (Cell Phone #) (E-mail Address)

6. Present zoning: R-1B Present use: single residential

7. Proposed use (if different): NA

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)

8-107 (e) Carports containing off-street parking
shall be subject to applicable setback requirements.

* applicable - capable of being applied, fit or suitable to be applied.

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

The size of the lot does NOT allow space for a setback.
The driveway sits directly on the property line on one side
and adjacent to the house on the other. The garage sits
directly in front of the carport. (Continued on separate sheet)

SEE ATTACHED DRAWING

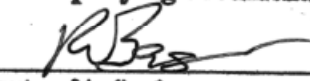
Because of our disabilities, we need to have the area marked

(Continued on back) →

carport on the map to be handicap accessible in the winter months. There is no room to setback carport from property line and still have that area be handicap accessible.

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.

 / Richard A. Bergmann / 10-2-2020
 (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.

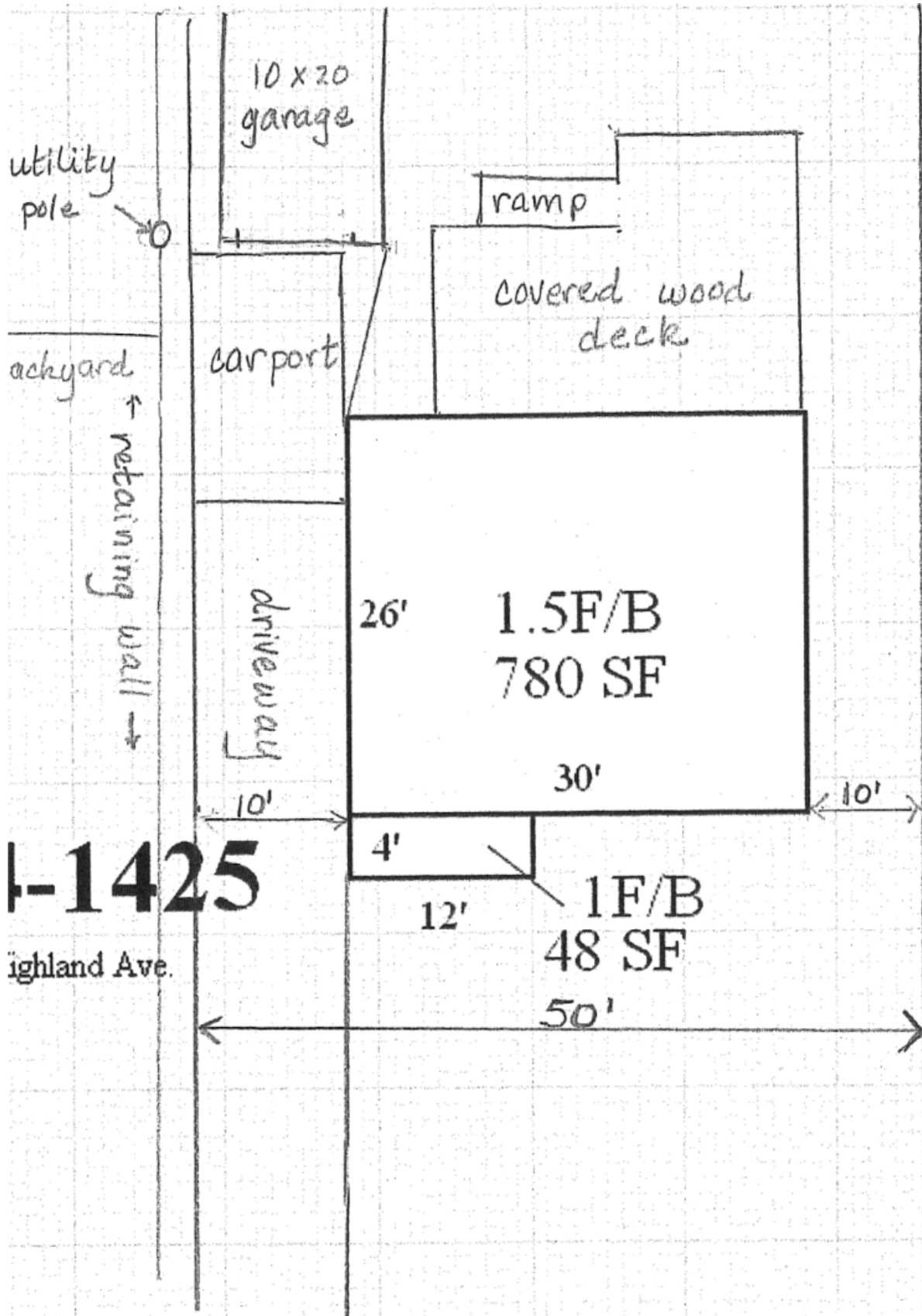
 / Richard A. Bergmann / 10-2-2020
 (Signature of Owner) (Print name) (Date)

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: <u>\$200.⁰⁰</u>	Meeting date: <u>Nov. 10, 2020</u>
Application accepted by: <u>Donna Pennington</u>	Date: <u>10/6/20</u>
No. of notices: _____	X mailing cost (\$0.50) = cost of mailing notices: \$ _____
Date Notice Published: _____	Date Notice Mailed: _____



1-1425

Highland Ave.

1343 Highland

COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE TO THE PUBLIC

October 28, 2020

To Whom It May Concern:

Richard Bergmann has filed an application requesting an Area Variance to Sections 6.3.3(b)(1) & 8-107(e) of the City of Beloit Zoning Ordinance to allow a carport within a side setback area in an R-1B, Single-Family Residential District, for the property located at:

1343 Highland Avenue.

In late 2019, the applicant constructed a carport without a Building Permit within a side setback area. The applicant is seeking a variance to allow the carport to remain in place.

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

Board of Appeals: Tuesday, November 10, 2020, 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 access phone number is (571) 317-3122 and access code is 252-095-533.** This line will be muted during the meeting.

We are interested in your opinion. Due to the COVID-19 crisis, members of the public are highly encouraged to provide oral or written comments to the Board via alternative means. You may mail your comments to the attention of Drew Pennington at 100 State Street or via email to penningtond@beloitwi.gov. You may also call (608) 364-6711 to provide your comments over the phone. In-person attendance at City meetings may be limited.

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 **only** 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 Drew Pennington at penningtond@beloitwi.gov or (608) 364-6711.

BOA-2020-03, 1343 Highland Ave, Bergmann

SALVADOR JIMENEZ
405 MCKINLEY AVE
BELOIT, WI 53511

WISCONSIN INVESTMENT RENTALS LLC
PO BOX 2571
JANESVILLE, WI 53547

DEANNE E GILE
421 MCKINLEY AVE
BELOIT, WI 53511

MARILYN J & JOHN POFF
135 E YOST DR
BELOIT, WI 53511

KADAST PROPERTIES LLC
PO BOX 652
BELOIT, WI 53511

TIMOTHY A KYSER
1342 HIGHLAND AVE
BELOIT, WI 53511

CHRISTOPHER A YUHAS
1342 EUCLID AVE
BELOIT, WI 53511

DONALD H LAFAVOR
420 LISTON AVE APT 100
SOUTH BELOIT, IL 61080

MARIA E LUCERO
1336 EUCLID AVE
BELOIT, WI 53511

WILLIAM MOSHER
1332 HIGHLAND AVE
BELOIT, WI 53511

MAX & VIRGINIA RYKOWSKI
234 PRAIRIE HILL DR
SOUTH BELOIT, IL 61080

HOLLY ANN R HANNER
1326 EUCLID AVE
BELOIT, WI 53511

MICHAEL E & COURTNEY M HARRIS
1337 HIGHLAND AVE
BELOIT, WI 53511

CHARLES P BROWN
1333 HIGHLAND AVE
BELOIT, WI 53511

PATRICK & LYLA WARD
1327 HIGHLAND AVE
BELOIT, WI 53511