

**City of Oconomowoc  
Zoning Board of Appeals**

**Thursday, March 19, 2020 @ 6:00 PM**

**@ City Hall Council Chambers**

NOTICE: If a person with a disability requires that the meeting be accessible or that materials at the meeting be in an accessible format, call Diane Coenen, City Clerk, at least 48 hours prior to the meeting at 262-569-2186 to request adequate accommodations.

**Meeting Agenda**

1. Call to order and confirmation of appropriate meeting notice.
2. Nominate / act on Chairperson pro tem.
3. Approve Meeting Minutes of May 14, 2019.
4. **Public Hearing – 6:00 PM:** The purpose of the hearing is to hear public comment on the variance application filed by Chad Reynen (property owner) for the property located at 833 W. LaBelle Avenue. The owner is requesting a variance from Section 17.202 – Residential Intensity and Bulk Requirements within the City Zoning Code, specifically the front yard setback in the Traditional Residential Zoning District, which does not allow structures within 20' of the front or street side property line. A variance of 7'6" is required to allow an addition to the existing dwelling to be constructed 12'6" from the street side property line.
  - A. Swear in those wishing to speak.
  - B. Zoning Administrator comments / presentation.
  - C. Applicant comments / presentation.
  - D. Citizen comments.
  - E. Close Public Hearing.
5. Consider/act on the request of Chad Reynen for a variance from Section 17.202 allowing a building addition to encroach 7'6" into the street side setback at 833 W. LaBelle Avenue.
6. Adjourn.

  
\_\_\_\_\_  
Diane Coenen, City Clerk  
City of Oconomowoc

Members of other city governmental bodies (board, commissions, committees, council, etc.) may attend the above-noticed meeting of the Zoning Board of Appeals in order to gather information. The only action to be taken at the above-noticed meeting will be action by the Zoning Board of Appeals.

All Zoning Board Members please notify the City Clerk's Office at 569-2186 if you are unable to attend.

**City of Oconomowoc  
Zoning Board of Appeals Minutes – May 14, 2019**

The Deputy Clerk called the meeting to order at 6:00 pm and confirmed that appropriate notice was given.

**Members Present:** Mark Gempeler, Kyle Driscoll, John Zapfel and Ken Brotheridge  
**Members Excused:** Jake Nicholson  
**Staff Present:** Jason Gallo and Tina Wallace

**2. Nominate/act on Chairperson pro tem:** Motion by Driscoll to nominate Board Member Brotheridge as Chairperson pro-tem; second by Gempeler. Motion carried 4-0.

**3. Approve Minutes of December 3, 2018:** Motion by Zapfel to approve the December 3, 2018 minutes; second by Gempeler. Motion carried 4-0.

**4. Public Hearing – 6:00 PM:** The purpose of the hearing is to hear public comment on the application filed by Daniel Bird (property owner) for property located at 118 Woodland Lane. The owners are requesting a variance from Section 17.202 Residential Intensity and Bulk Requirements within the City of Oconomowoc Zoning Code, specifically the rear yard setback in the Traditional Residential Zoning District, which does not allow accessory structures such as detached garages, within 5' of the rear property line. A variance of 2' is required to allow the existing detached garage to be reconstructed in the same location 3' from the rear property line.

Brotheridge opened the public hearing at 6:01 pm and swore in the property owner, Daniel Bird and Jason Gallo, City Planner. Gallo gave a power point presentation on the applicant's variance request. He stated this is for an area variance. They are asking for a waiver of an ordinance from Section 17.202 Residential Intensity and Bulk Requirements for the property at 118 Woodland Lane. This is regarding a detached accessory building. The City allows 5' from the rear property line as a setback. The applicant would like to encroach 2' into that setback. They would have a 3' setback maintained, so they would need to encroach 2' into the 5' setback. There is an existing non-conforming one car garage and the applicant would like to construct a one and a half car garage. Gallo gave a brief history of the property. He stated the applicant is requesting to tear down the existing garage and rebuild a new garage that would be about 22'x24'. There would be a 3' side yard setback which would be in compliance with today's standards, but the garage would encroach into the 5' rear yard setback requirement. Gallo stated in order for the Zoning Board of Appeals to grant a variance there is a three-part test. The applicant has the burden of proof to demonstrate that all three criteria defined in the state statute requirements are met: 1) is unique physical property limitations are existing; 2) no harm to public interests; and 3) unnecessary burden on the owner if it's not granted. Planning Staff finds the property contains unique physical property limitations, no harm to public interest and there is unnecessary burden placed on the applicant. Gallo concluded the Board has 5 alternatives to granting a variance: approve the request as submitted, deny request, approve the request in part, approve the request with conditions as determined, or postpone action. The Board should consider have they exhausted all other means; would a text amendment be a better solution and will granting this various set a precedent. The Board should consider the application, evidence during the public hearing, staff report, photos, letters and emails. Planning Staff recommends approval of the variance at 118 Woodland Lane.

Daniel Bird stated he won't be any further or closer to the neighbor in the back. The neighbors are in agreement with this. He is shifting the garage door a little to the north because it is difficult to back out.

No additional public comments were received. The public hearing closed at 6:27 pm.

**5. Consider/act on the request of Daniel Bird (property owner) for a 2' variance from Section 17.202 relating to the rear yard setback for the reconstruction of the existing detached garage at 118 Woodland Lane:**

Board was in agreement with staff findings.

Motion by Driscoll to approve the variance as it was provided with no conditions for the following reasons: 1) the property contains unique physical limitations due to the shared driveway, the closeness of the homes and how narrow the driveway is; 2) No harm to the public interest: A) There was no calls received in opposition to this plan; B) The letters of support by the neighbor, as well as the Alderman; and C) It's going to have similar footprint and it won't encroach any closer to the property owner behind it; and 3) There is an unnecessary burden due to the poor shape of it. If the variance is not granted there is a safety hazard there and, also the inability to turn around and needing to back out of the garage and driveway given today's standards; second by Zapfel. Motion carried 4-0.

No further discussion or action was taken.

Motion by Zapfel to adjourn the meeting of the Zoning Board of Appeals; second by Driscoll. Motion carried 4-0. The meeting adjourned at 6:31 pm.

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Tina Wallace, Deputy City Clerk

# Planning Department Staff Report

City of Oconomowoc

Zoning Board of Appeals –3/19/2020

## Chad Reynen Addition

Variance Request

**Summary:** The applicant submitted a variance application, that would allow an addition to the existing dwelling 12'6" from the street side property line. A 7'6" variance is requested from the required 20' street side setback.

**Property Location:** 833 W. LaBelle Avenue, tax key number OCOC 0558.037.001

**Property Owners:** Chad & Tanya Reynen  
833 W. LaBelle Avenue  
Oconomowoc, WI 53066

**Applicant:** Chad Reynen

**Existing Zoning:** TR; Traditional Residential District  
**Existing Land Use:** Single-Family residential use



**General Location Map**

**Request:**

The request is to construct an addition to the existing single-family dwelling located at 833 W. LaBelle Avenue. The existing structure is considered legal non-conforming and can only have additions that are constructed in accordance with the current City setback requirements, being 20' from the street side lot line. The proposed addition would not encroach any closer to the road than the existing building. Below are photos taken by City Staff, which shows the existing building.



The 20' x 22' (440 SF) addition would be attached to the existing dwelling. The main purpose of the addition is to change the home from a 2 bedroom / 1 bath to a 3 bedroom / 2 bath. The addition would be no closer to the street (front property line) than the existing house. The house is 12'6" from the property line along Chestnut Street and the addition would maintain that distance.

**History:**

Previously this property was considered a corner lot with public street right-of-way along both the north side of the property and the west side of the property. To the north was LaBelle Avenue and to the west was Chestnut Street. In 1994 the street right-of-way of

LaBelle Avenue that abutted this property was vacated, now the property only has street frontage along Chestnut Street.

This is a significant finding. Dwellings with frontage along more than one street, must meet the front yard (street) setback for each street that the property abuts. Now that the part of LaBelle has become vacated, that side is no longer classified as a street frontage, so the structure only needs to meet the **side yard setback** (7' vs. 20').

The property **address** was also affected with the street vacation in 1994. The address for the dwelling is 833 LaBelle Avenue. This property does not abut LaBelle Avenue, but has a LaBelle Avenue address. When the property was constructed in 1941, the front door was facing the LaBelle right-of-way, hence the assigned address was given to the road that the front door was facing. With the vacation of the road, the previous "front" door now faces the side lot line. There is no door that faces a public street.

On February 7, 2020, Planning Staff denied the building permit, since the plans showed the addition encroaching into the required street yard building setback of 20'. A letter of denial was drafted and sent to the property owner. The letter is attached.

### **Type of Variance:**

The applicant is requesting an area variance, not a use variance. An area variance is intended to provide an increment of relief (normally small) from a dimensional restriction such as building height, width, area, setback, etc. To grant a variance, the Board of Zoning Appeals must determine if the request meets each of the three (3) statutory variance criteria (standards/tests) as provided below.

### **Public Input:**

Staff has not heard from any public (either for or against) regarding this proposed project. The applicant informed the City that his intentions were to discuss their request with the property owners most affected by this project.

### **1 Unique Physical Property Limitations Standard:**

The first test/standard deals with uniqueness to the property that other nearby properties may not have. The UW-Extension defines unique property limitations as follows: "Steep slopes or wetlands must prevent compliance with the ordinance. The circumstances of an applicant, such as a growing family, elderly parents, or a desire for a larger garage, are not legitimate factors in deciding variances."

Planning staff finds the property contains unique physical property limitations. This property contains a tree in the rear yard that is preventing the addition to be added on to in the rear yard. The tree would need to be removed. The tree is an approximate 150 oak tree. While the diameter of the tree is not 13' as stated in the application materials, the tree has a substantial diameter and circumference. On the next page find photos of the tree in relation to the dwelling and a second photo of the tree for scale purposes.



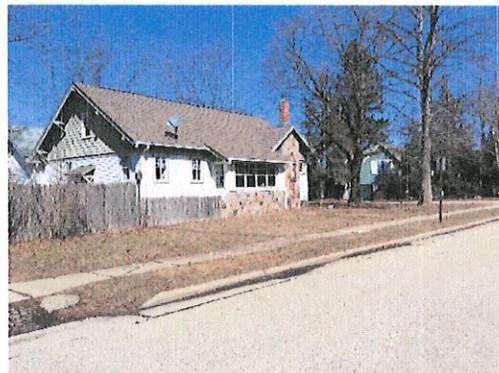
**2 No Harm to Public Interests Standard:**

The UW-Extension defines no harm to public interest as follows: “A variance may not be granted which results in harm to public interests. Public interests can be determined from the general purposes of an ordinance as well as the purposes for a specific ordinance provision. Analyze short-term, long-term, and cumulative impacts of variance requests on the neighbors, community and statewide public interest.”

Planning Staff finds the proposed variance does not harm the public interest. The proposed addition will not encroach any closer to the street setback than the existing home that has been in that location for almost 80 years. Staff has reviewed other homes in surrounding area and the current 2-bedroom home is smaller than most other homes in the area. This addition will make the dwelling more consistent with the surrounding properties.



(neighbor adjacent to the south)



(neighbor directly across the street)

**3 Unnecessary Burden Standard:**

Planning Staff finds an unnecessary burden is placed on the applicant if the variance were denied. The applicant has a growing family and requires a 3-bedroom dwelling, but want to stay at this location. The applicant has exhausted all options, including building a second floor or out the back side. Neither option would work for the additional bedroom.

If the addition was constructed that adhered to the current 20' setback requirement, the bedroom would be reduced to 12'5 x 22'. This is not a typical size for a master bedroom.

This addition will also provide the applicant with a "front door" presence on Chestnut Street. Currently the "front door" faces the LaBelle Street right-of-way that was vacated 25 years ago. This is a safety matter to have a high-profile front door location. In case of an emergency, the property owner wants Police, Fire and EMTs to be able to get inside the dwelling as fast as possible. The dwelling's 833 LaBelle Street address is already confusing, since there is no LaBelle Street frontage for this property.

**Alternatives:**

When reviewing variances, the City Zoning Board of Appeals should look at all potential alternatives prior to acting on the variance.

The owners by Ordinance are allowed a building addition with a setback of 20' from the street property line. Variances can be granted in full or in part, below are possible options:

1. Deny the request as submitted. Ask that the addition conform to the 20' setback.
2. Approve the request with no conditions. Allow the addition to be built (20'x22).
3. Approve the request with conditions. Ask the addition be reduced in size or any other conditions the Board feels are appropriate.
4. Postpone the request to get more information.

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**Staff Reasoning / Recommendation:**

Staff prefers to save the large Oak tree, the addition will not encroach closer than the existing home, the home with the addition will be consistent with other adjacent properties and the addition will allow the front door to be relocated adjacent to the street.

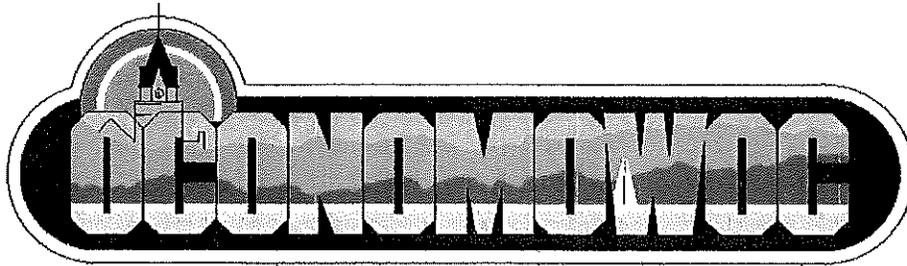
*Staff feels the proposed variance meets the **statutory** requirements for granting a variance. Planning staff recommends **approval** of the variance request, per Number 2 above – Approve with no conditions.*

**Submitted by:**



Jason Gallo, AICP

City Planner/Zoning Administrator



February 7, 2020

Mr. Chad Reynen  
833 W. LaBelle Avenue  
Oconomowoc, WI 53066

**RE: 833 W. LaBelle Avenue – Building Permit Application, Addition to Home & Reconstruction of the Detached Garage**

The City of Oconomowoc received your building application submitted on February 5, 2020, to construct a 20' x 22' addition to the existing dwelling and replace the existing garage with the new construction of an irregular shaped 997 SF detached garage at 833 LaBelle Avenue. The permit application for the addition to the dwelling is hereby denied; as the addition would encroach within the street / front yard setback of the property.

The subject property is zoned TR - Traditional Residential District. Per the City Zoning Ordinance Section 17.202, the front yard setback in the TR District for the principal structure is a minimum of 20' measured from the property line along any street.

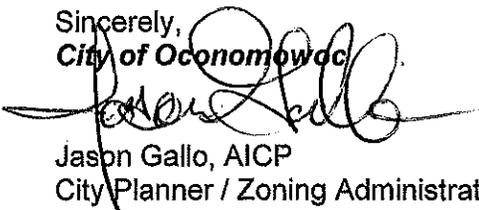
Per the drawing you provided, you identify that the addition will be constructed the same distance as the existing structure, which is 12'6" from the street side property line. The addition encroaches 7.5' into the side yard setback. At this time, I encourage you to change the plans to reflect the required 20' setback. You would need to reapply with a new map identifying the revised building addition location.

The proposed detached garage is located in the side yard of the property, and therefore complies with the Zoning Ordinance requirements. No variance is needed for the proposed detached garage.

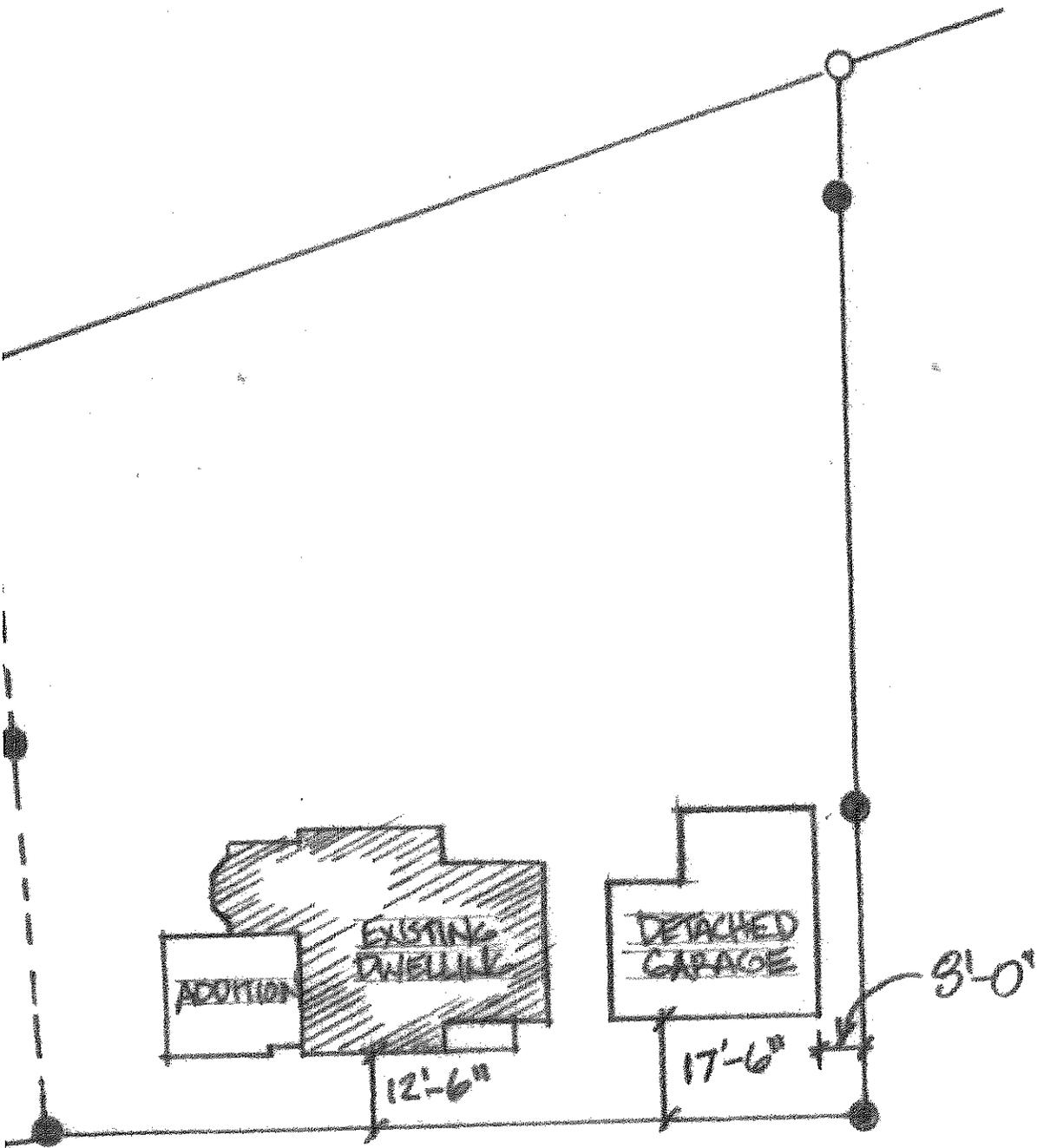
Another available alternative is to apply for a variance, as this requested encroachment would be considered a dimensional variance (7.5' encroachment). Please be aware that granting variances to allow structures within the required setback area may be challenging for the City. Certain findings must be made in order for the Zoning Board of Appeals to grant. The applicant is to include reasons why the setback encroachment variance shall be granted. Applications to apply for a variance are available on the City's Planning webpage.

If you have any questions or concerns, please feel free to contact the Planning Department at (262) 569-2166.

Sincerely,  
*City of Oconomowoc*

  
Jason Gallo, AICP  
City Planner / Zoning Administrator

Cc: City Administrator  
Building Inspection  
Property File



SITE PLAN

# Variance Application

## City of Oconomowoc Zoning Board of Adjustment/Appeals

Date filed: 2-27-20

\$400.00 fee

	Owner	Applicant
Name	Chad Reynen	
Address	833 W. LaBelle Ave Oconomowoc WI 53066	
Phone	414 915 4123	
E-mail	thechad669@sbeGLOBAL.net	

**Please provide fifteen (15) copies of the following information:**

1. A scaled map of the existing subject property showing all lands for which the variance is proposed, and all other lands within 200 feet of the boundaries of the subject property. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
2. A map of the generalized location of the subject property in relation to the City as a whole;
3. A written description of the proposed variance; (e.g. encroachment of 3' into a side yard setback)
4. A site plan of the subject property as proposed for development;
5. Written justification for the requested variance consisting of the reasons why the applicant/property owner believes the proposed variance is appropriate;
6. Describe alternatives to your proposal such as other locations, designs, and construction techniques. If you find such alternatives, please explain why you have rejected them;

**Please answer the following questions (Fifteen (15) copies on separate paper):**

1. What exceptional/extraordinary circumstances, special factors or unique property limitations are present which apply only to the property? In what manner do the factors listed prohibit the development of the subject property?
2. Would granting the proposed variance be a substantial detriment to the public interest?
3. Would the granting of the proposed variance result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property, or other matters affecting the public health, safety, or general welfare?
4. Have the factors which present the reason for the proposed variance been created by the act of the applicant or previous property owner or their agent?
5. Would compliance with the ordinance unreasonably prevent the owner from using the property for a permitted purpose or would conformity with the ordinance create an unnecessary burden on the property owner?
6. Has the requested variance or any other variances been granted or denied to the property in the past?

I certify that the information I have provided in this application and attached documents are true and accurate.

Property Owner Signature:  Date: 1-29-2020

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

174 E. Wisconsin Avenue · P. O. Box 27 · Oconomowoc, Wisconsin 53066  
262-569-2166 · [www.oconomowocusa.com](http://www.oconomowocusa.com)

833 W LaBelle Ave



833 W LaBelle Ave



# CERTIFIED SURVEY MAP NO.

BEING ALL OF LOTS 9 & 10, AND SOUTHERLY 1/2 OF VACATED LABELLE AVENUE  
IN THE PLAT OF LAKE GROVE, LOCATED IN THE SE 1/4 OF THE NW 1/4 OF  
SECTION 32, T8N, R17E, CITY OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN

**SURVEYOR**

MARK A. POWERS, RLS 1701  
WELCH, HANSON & ASSOC., INC.  
W.219 E. WISCONSIN AVE.  
NASHOTAH, WI. 53058  
(414)367-4225

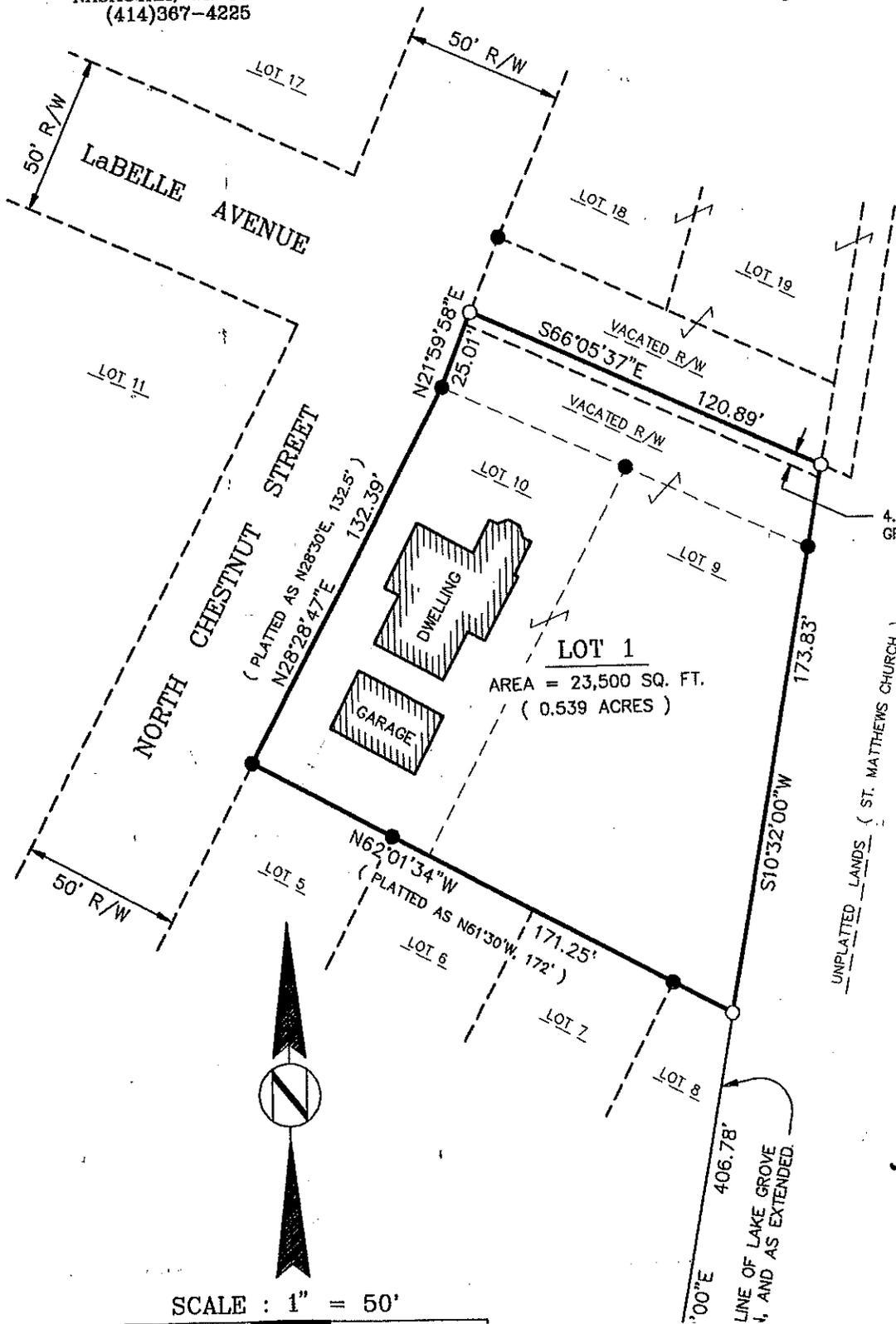
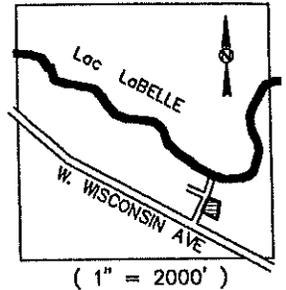
**SURVEY FOR**

IVAN F. NOHAVICA  
AND  
HELGA M. NOHAVICA

**LEGEND**

- ⊙ - CONC MON W/ BRASS CAP
- - 1" DIA. IRON PIPE SET, 24" LONG, WT. = 1.13 LBS/LIN. FT.
- - 1" DIA. IRON PIPE FOUND

LOCATION SKETCH  
NW 1/4, 32-8-17



SCALE : 1" = 50'

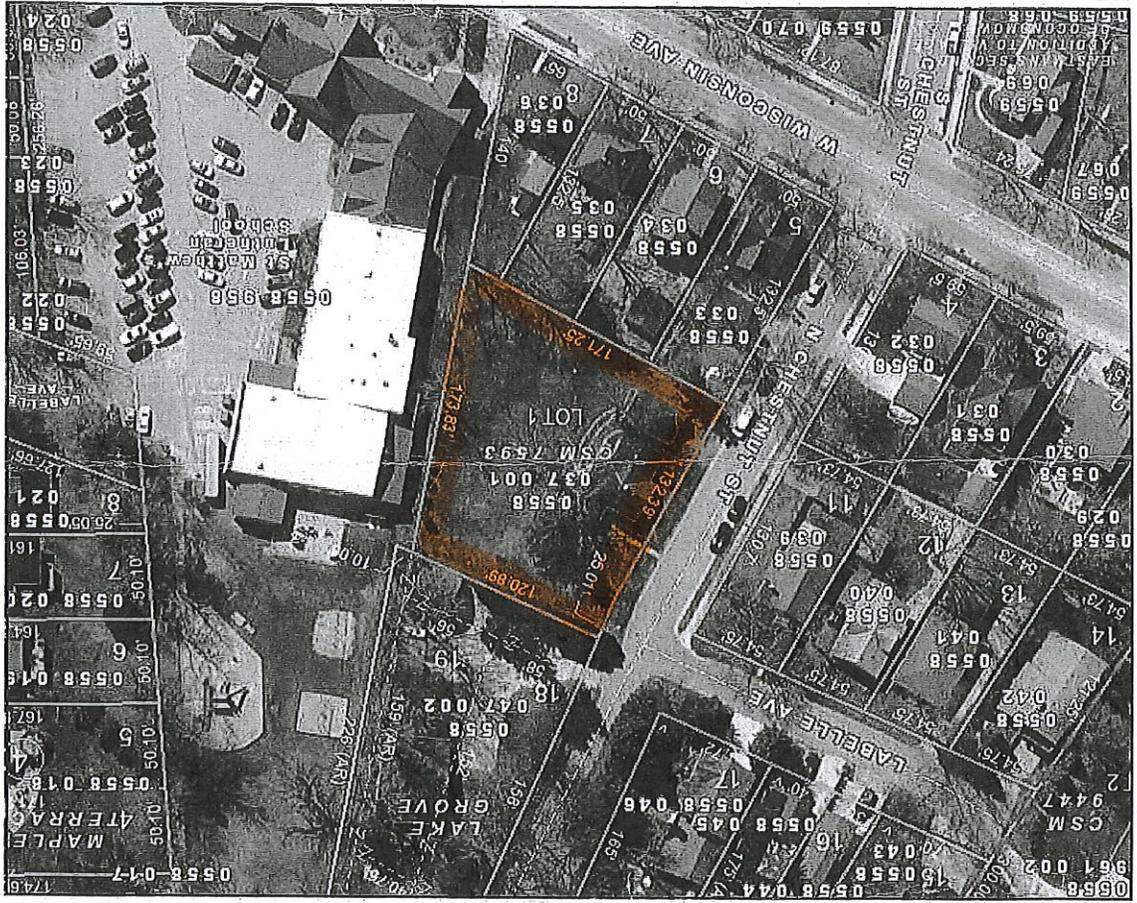


*Mark A. Powers*  
June 28, 1994



LAND INFORMATION SYSTEMS DIVISION

# Waukesha County GIS Map



- Legend
- SimultaneousConveyance
  - Assessor Plat
  - CSM
  - Condo Plat
  - Subdivision Plat

Notes:

Printed: 9/6/2017

The information and depictions herein are for informational purposes and Waukesha County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Waukesha County will not be responsible for any damages which result from third party use of the information and depictions herein, or for use which ignores this warning.

0 83.33 Feet



W Glenview Ave

N Maple Terrace

W Labelle Ave

N Maple Terrace

N Maple Terrace

N Maple Terrace

St. Matthew's  
Lutheran Church

833 West Labelle Avenue  
2 min drive - home

Google

16

16



Maps



traffic and nearby places



Stonebank

K

K

67

16

16

Brown St

Kettle Moraine Scenic Dr

Ski Slide Rd

67

16

E Lisbon Rd

67

Oconomowoc Golf Club

Okauchee Lake

Che

O

Family Tae Kwon Do Champions

16

16

Lakeland Dr

Techniplas

Nashotah

Oconomowoc Lake

Oconomowoc High School

Ski Slide Rd

N Sawyer Rd

Nashotah Rd

Lakeland Dr

Concord Rd

Silver Lake Intermediate School

Valley Rd

Valley Rd

N Golden Lake

Summit Ave

Weyer Rd

**#3 – Written description of the proposed variance.**

The residential requirements state that the front of the principle structure must be 20 feet from the street. The principle structure (residence) was originally built with just 16 feet distance from the street. The variance requested is to allow for the principle structure (residence) to have an addition built on the north end of the home, while maintaining its current distance from the street of 16 feet. We are requesting a 4' variance to maintain the same setback of the home to the street.

**#5 – Written justification for the requested variance consisting of the reasons why the applicant/property owner believes the proposed variance is appropriate.**

We believe the approval of our plans are appropriate because it will orient our main entrance to the prominent street side of our home. In Section 17.203 of the City of Oconomowoc Zoning Ordinance, it states that main entrances must be prominent and oriented to the street in the front of the dwelling. With the addition, our home will have the "front" door in a more accessible location and improve the functionality of the front door. Currently, our main door faces the north, where LaBelle Avenue was deemed not necessary for public travel, thus removing the street on the north side of our home. The west side of the home is now street side (Chestnut street)

The second aspect of our project is the master bedroom/bathroom. The addition of the master bedroom/bathroom will not be encroaching any closer to Chestnut street than the home has since it was first built in 1941. The addition simply follows the line of the home to keep it consistent. We have exhausted every option as to where we could add a third bedroom to our home, and this would be the most economical and maintain the look of the home to fit with the other homes in our neighborhood. There is a prominent Burr Oak tree preventing an addition to the east side/rear of the home as well as preventing adding a second story to our home. The tree is estimated to be over 150 years old and is 13 feet in diameter.

**#6 - Describe alternatives to your proposal such as other locations, designs and construction techniques. If you find such alternatives, please explain why you have rejected them.**

Front Door: The door used most often in our home is actually the back door as it is closer to the garage and driveway. The current location of the front door is on the opposite side of the home with no sidewalk that leads from our driveway to it. With the proposed plan, the garage, driveway and front door would all be in a convenient, street facing, location, improving the look and flow of the home.

Eliminating the door completely would eliminate any aspect of a "Main Entrance" as required in Section 17.203 as the second door is in the rear of our home facing the back yard.

Moving the main door to another area of the home wouldn't allow for the main entrance into any open space of the home as it would lead into bedrooms.

Master Suite Addition: As mentioned above, the option of adding a master bedroom/bathroom suite on the second story was eliminated. The main reason being is we want this to be our forever home and maintaining a ranch style home is very important to us. Secondly, there would be very significant structural changes necessary for a second story to be added, which in turn has a large financial impact.

Adding on in the rear of our home would require cutting down a very large oak tree which is something we are not willing to do as it is historical and provides great property value and esthetics.

Application Questions

- 1) What exceptional/extraordinary circumstances/special factors or unique property limitations are present which apply only to the property? In what manner do the factors listed prohibit the development of the subject property?

Front Door: The current location of the front door does not meet the ordinance requirement of being prominent and oriented to the front side of the home. From the street you do not see a front door. A portion of LaBelle avenue has been removed thus eliminating the street from what was the front of the house (north side). Moving the door to the proposed location will make it street side again.

Master Suite Addition: The biggest limitation is the rear of the property not being an option for the master bedroom. The property has a significant drop off to a lower elevation and the large oak tree would have to be removed. If the bedroom were put in the rear, windows from the kitchen and/or dining room would have to be eliminated as well.

- 2) Would granting the proposed variance be a substantial detriment to the public interest?

Granting this variance would not be a substantial detriment to any public interest. Our plan was carefully thought out and designed to not approach any closer to the road than the home already has since built in 1941.

- 3) Would the granting of the proposed variance result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property, or other matters affecting the public health, safety or general welfare?

This is in keeping with the direction of our community. The recent additions to our downtown have, I feel, made all property owners want to upgrade our properties and homes.

We believe that this plan will maintain the character by keeping the brick siding and design of home facing the street. There will be minimal impact to our landscape and large oak tree with this design for the addition.

- 4) Have the factors which present the reason for the proposed variance been created by the act of the applicant or previous property owner or their agent?

The street was deemed not necessary for public travel and thus vacated in May of 1994. The land was granted to the previous owners as a pedestrian easement. Essentially making the front door of the home a side door.

- 5) Would compliance with the ordinance unreasonably prevent the owner from using the property for a permitted purpose or would conformity with the ordinance create an unnecessary burden on the property owner.

The home is already a residential home with two bedrooms. However our family has grown and we want to have a third bedroom.

Our current situation does not have a front entry that meets city ordinances, if the variance isn't approved It would prevent the home from having a front door facing the street. The plans create one while not moving any closer to the street than the home already is.

- 6) Has the requested variance or any other variances been granted or denied to the property in the past?

No, not to our knowledge.

1968445

REGISTER'S OFFICE  
WAUKESHA COUNTY, WIS. } SS  
RECORDS DIVISION

91 MAY 31 PM 1:48

REEL 1939 IMAGE 0645

*Michael J. Bentzinger*  
REGISTER OF DEEDS

RESOLUTION

1968445

WHEREAS, the following portion of LaBelle Avenue is unimproved and is not deemed necessary for public travel, and public interest requires that said street be vacated and discontinued.

Legal Description

All that part of the Northwest 1/4 of Section 32, Town 8 North, Range 17 East, City of Oconomowoc, Waukesha County, Wisconsin, bounded and described as follows:

Commencing at the Southwest corner of Lot 18 in "Lake Grove," a subdivision located in the aforesaid Northwest 1/4 of Section 32, Town 8 North, Range 17 East; thence Easterly, along the North line of LaBelle Avenue (unimproved), 116 feet to the Southeast corner of Lot 19 in said "Lake Grove" Subdivision; thence South 10° 32' West, 51.4 feet more or less to the Northeast corner of Lot 9 in said "Lake Grove" Subdivision; thence Westerly, 126 feet to the Northwest corner of Lot 10 in "Lake Grove" Subdivision; thence Northerly, 50 feet more or less to the place of beginning.

WHEREAS, §66.296, Wis. Stats., provides that as an alternative to a petition by owners of frontage on the portion to be discontinued and of the owners of the remainder, the Common Council may, by introduction of a resolution declaring that since the public interest requires it, the whole or any part of any . . . street . . . in the City . . . may be vacated and discontinued; and

WHEREAS, a hearing on the passage of any resolution initiated by the Common Council vacating and discontinuing a

public street shall be set by the Common Council on a date which shall not be less than 40 days after the introduction of said resolution, said notice to be a Class 3 notice pursuant to §66.296(5), Wis. Stats., and said notice also to be served on the owners of all of the frontage of the lots and lands abutting upon the portion thereof sought to be discontinued, at least 30 days before such hearing; and

WHEREAS, no discontinuance shall be ordered if a written objection to the proposed discontinuance is filed with the City Clerk by any of the owners abutting on the portion sought to be discontinued or by the owners of more than one-third of the frontage of the lots and lands abutting on that portion of the remainder thereof which lies within 2,650 feet from the ends of the portion proposed to be discontinued; and

WHEREAS, this resolution was introduced to the Common Council on the 15th day of February, 1994, at which time the Council directed that the required public hearing be held on the 5th day of April, 1994, at 7:30 p.m. in the Council Chambers, City Hall, 174 East Wisconsin Avenue, Oconomowoc, Wisconsin; and

WHEREAS, if this resolution vacating and discontinuing the portion of LaBelle Avenue set forth above is adopted, it is necessary that the City reserve the following utility easements on behalf of Wisconsin Natural Gas Company, Oconomowoc Utilities (electric), Wisconsin Bell and Crown Cable:

Utility Easement

Reserving from the above-described property, the Northerly 30 feet for utility purposes.

### Pedestrian Easement

At the public hearing and subsequent thereto, it has been agreed by the property owners adjacent to that portion of LaBelle Avenue to be vacated that they will grant to St. Matthew's Evangelical Lutheran Church an easement for pedestrian travel eight feet wide (four feet from each property).

NOW THEREFORE, BE IT HEREBY RESOLVED by the Common Council of the City of Oconomowoc that the aforementioned portion of LaBelle Avenue is not deemed necessary for public travel and the public interest requires the vacating and discontinuance of that portion of LaBelle Avenue, and no written objection to the proposed vacating and discontinuance has been filed with the City Clerk, the above described portion of LaBelle Avenue is hereby vacated and discontinued pursuant to §66.296, Wis. Stats., subject to a reservation for the City of Oconomowoc Utilities, Wisconsin Natural Gas Company, Wisconsin Bell and Crown Cable, and subject to the granting by the property owners of land adjacent to that portion of LaBelle Avenue being vacated, of a pedestrian easement to St. Matthew's Evangelical Lutheran Church:

### Utility Easement

Reserving from the above-described property, the Northerly 30 feet for utility purposes.

### Pedestrian Easement

Eight feet wide, including four feet north of the center line of that portion of LaBelle Avenue to be vacated and four feet south of the center line of that portion of LaBelle Avenue to be vacated, and extending from the east right-of-way line of Chestnut Street to the west lot line of St. Matthew's Evangelical Lutheran Church property, said easement to be memorialized by separate document to be executed by the adjacent property owners subsequent to action by the Common Council on this resolution.

DATED:

*May 17, 1994*

CITY OF OCONOMOWOC

ATTEST:

*Ardyce Senfleben*  
Ardyce Senfleben, Clerk

By:

*Marlene M Schumacher*  
Marlene Schumacher, Mayor

STATE OF WISCONSIN)  
WAUKESHA COUNTY )  
CITY OF OCONOMOWOC)

I, Jennifer Staude, Deputy City Clerk of the City of Oconomowoc, Waukesha County, Wisconsin, do hereby certify that I have compared the annexed Resolution with the original instrument now on file in the City Clerk's Office, and that the same is a true copy, and a direct transcript of said instrument.

I hereby certify that said Resolution, of which the annexed is a true and correct copy, was adopted by the Common Council of the City of Oconomowoc, Wisconsin, at a Common Council Meeting thereof held on May 17, 1994.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of the City of Oconomowoc, Wisconsin, this 23 day of May, 1994.

*Jennifer Staude*  
Jennifer Staude, Deputy City Clerk  
Oconomowoc, Waukesha County, WI.

DRAFTED BY AND RETURN TO:

William Chapman  
156 East Wisconsin Ave.  
Oconomowoc, WI 53066

1968446

REGISTER'S OFFICE }  
WAUKESHA COUNTY, WIS } SS  
RECORDED CH

94 MAY 31 PM 1:48

REEL 1939 IMAGE 0649

*Michael J. Hantinger*  
REGISTER OF DEEDS

1968446

PEDESTRIAN EASEMENT

THIS PEDESTRIAN EASEMENT is entered into this 21<sup>ST</sup> day of MAY, 1994, by and between RICHARD C. BECHTEL and DARLENE D. SALSBUURY, hereinafter ("Bechtel") and IVAN F. NOHAVICA and HELGA M. NOHAVICA, hereinafter ("Nohavica"), all of which are sometimes collectively referred to herein as Grantors, and ST. MATTHEW'S EV. LUTHERAN CHURCH, hereinafter ("St. Matthew's"), Grantee.

P18

FEE

#77.25(13)  
EXEMPT

Recitals

WHEREAS, the City of Oconomowoc has vacated LaBelle Avenue between the east right-of-way line of Chesnut Street and the west boundary of St. Matthew's Property, hereafter the ("vacated street"), and

WHEREAS, Bechtel is the owner of the following described real property, the south boundary of which abuts the vacated portion of LaBelle Avenue, hereafter the ("Bechtel Property").

Parcel I

Lots Eighteen (18) and Nineteen (19) in Lake Grove, a Subdivision of part of the Northwest One-quarter (1/4) of Section Thirty-two (32), Township Eight (8) North, Range Seventeen (17) East, in the City of Oconomowoc, Waukesha County, Wisconsin.

Parcel II

The West Ten (10) feet of the following described real estate:

All that part of the Northwest One-quarter (1/4) of Section Thirty-two (32), Township Eight (8) North, Range Seventeen (17) East, in the City of Oconomowoc, Waukesha County, Wisconsin, bounded and described as follows, to-wit:

Bounded on the East by the West line of Maple Terrace Subdivision as the same is now recorded in the office of the Register of Deeds and on the North by the shore of Lake LaBelle in the City of Oconomowoc and on the West by the East line of Lake Grove Subdivision as the same is now recorded in the office of the Register of Deeds and on the South by a line described as follows: Commencing at a point at the intersection of the center line of LaBelle Avenue and the Westerly line of said Maple Terrace; thence in a straight line Westerly to the point of intersection of the Easterly line of said Lake Grove Subdivision and the center line of LaBelle Avenue in said Lake Grove Subdivision.

Tax Key No. OCOC 558.047 and 558.047.001

WHEREAS, Nohavica is the owner of the following described real property, the north boundary of which abuts the vacated portion of LaBelle Avenue, hereafter the ("Nohavica Property").

Lots Nine (9) and Ten (10), of the Plat of Lake Grove, a subdivision of part of the Northwest One-quarter (1/4) of Section Thirty-two (32), in Township Eight (8) North, Range Seventeen (17) East, according to the recorded plat thereof, all in the City of Oconomowoc, Waukesha County, Wisconsin.

Tax Key No. OCOC 558.037

WHEREAS, St. Matthew's is the owner of the following described real property, hereafter the ("St. Matthew's Property"), the west boundary of which abuts the vacated portion of LaBelle Avenue, the Bechtel Property and the Nohavica Property.

All that part of the NW 1/4 of Section 32, Township 8 North, Range 17 East, in the City of Oconomowoc, Waukesha County, Wisconsin, described as follows: Commencing at the SE corner of Lake Grove Subdivision; thence North 10 degrees 37 minutes East, along the east line of said subdivision, 314.91 feet to the centerline of LaBelle Avenue (unimproved); thence South 68 degrees 58 minutes E, along the said centerline, 10.18 feet; thence North 10 degrees 37 minutes E, 232.28 feet measured, 243.28 feet recorded, to the shoreline of Lac LaBelle; thence along a meander line, S 85 degrees 57 minutes East, 85.36 feet recorded, 87.166 feet, North 87 degrees 12 minutes 41 seconds East, measured, to the west line of Maple Terrace Subdivision; thence South 04 degrees 15 minutes 30 seconds East, 299.78 feet to the centerline of LaBelle Avenue; thence South 68 degrees 20 minutes 30 seconds East, along the centerline of said street, 60.00 feet; thence South 03 degrees 43 minutes 54 seconds East, along said west line of Maple Terrace Subdivision, 381.12 feet; thence North 61 degrees 30 minutes 00 seconds West 341.60 feet, 341.60 feet to the place of beginning.

Also that land lying between the following described line and Lac LaBelle: Commencing at the NE corner of the previously described parcel; thence North 1 degree 52 minutes 30 seconds West, 135.20 feet to the end of the described line.

Also Lot 5, Block 5, excepting the easterly 108 feet thereof, in Maple Terrace Subdivision, being a part of the West 1/2 of Section 32, Township 8 North, Range 17 East in the City of Oconomowoc, Waukesha County, State of Wisconsin.

Tax Key No. OCOC 558.958

WHEREAS, Bechtel and Nohavica have agreed to establish a permanent easement eight (8) feet wide over and across a part of the vacated street for pedestrian travel from Chesnut Street to the St. Matthew's Property,

NOW, THEREFORE, for the sum of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged:

1. RICHARD C. BECHTEL and DARLENE D. SALSBURY do hereby grant and convey a permanent easement for pedestrian travel over and across that portion of the vacated street which they now own by virtue of the vacation thereof by the City of Oconomowoc, extending over and across a strip of land 4 feet north of the center line of the vacated street from and between the east right-of-way line of Chesnut Street and the west boundary of St. Matthew's Property to ST. MATTHEW'S EV. LUTHERAN CHURCH for the use and benefit of ST. MATTHEW'S EV. LUTHERAN CHURCH, its members, students and employees; and

2. IVAN F. NOHAVICA and HELGA M. NOHAVICA do hereby grant and convey a permanent easement for pedestrian travel over and across that portion of the vacated street which they now own by virtue of the vacation thereof by the City of Oconomowoc, extending over and across a strip of land 4 feet south of the center line of the vacated street from and between the east right-of-way line of Chesnut Street and the west boundary of St. Matthew's Property to ST. MATTHEW'S EV. LUTHERAN CHURCH for the use and benefit of ST. MATTHEW'S EV. LUTHERAN CHURCH, its members, students and employees.

The grant of the foregoing easements shall be binding on Bechtel and Nohavica, and their respective heirs, grantees, successors and assigns and shall hereafter be a covenant running with the land.

IN WITNESS WHEREOF, all of the Grantors have executed this Pedestrian Easement on the day and year first above written.

Richard C. Bechtel (SEAL)  
Richard C. Bechtel

Darlene D. Salsbury (SEAL)  
Darlene D. Salsbury

Ivan F. Nohavica (SEAL)  
Ivan F. Nohavica

Helga M. Nohavica (SEAL)  
Helga M. Nohavica

AUTHENTICATION

Signatures of Richard C. Bechtel and Darlene D. Salsbury authenticated this 21<sup>ST</sup> day of MAY, 1994.

William Chapman  
William Chapman  
TITLE: Member of State Bar of Wisconsin

AUTHENTICATION

Signatures of Ivan F. Nohavica and Helga M. Nohavica authenticated this 21<sup>ST</sup> day of MAY, 1994.

William Chapman  
William Chapman  
TITLE: Member of State Bar of Wisconsin

This instrument was drafted by and should be returned after recorded to:

Robert B. Peregrine  
PEREGRINE LAW OFFICES, S.C.  
633 West Wisconsin Avenue  
Suite 1300  
Milwaukee, Wisconsin 53203  
Telephone: (414) 272-4833