

CITY OF ONALASKA MEETING NOTICE

COMMITTEE/BOARD: Board of Zoning Appeals
DATE OF MEETING: November 19, 2018 (Monday)
PLACE OF MEETING: City Hall – 415 Main Street (Room 112)
TIME OF MEETING: 6:30 P.M.

PURPOSE OF MEETING

1. Call to Order and roll call.
2. Approval of minutes from the previous meeting
3. Public Input (limited to 3 minutes per individual)

Consideration and possible action on the following items:

4. **Public Hearing:: Approximately 6:30 PM (or immediately following Public Input)**
Request for variance filed by Terry Weiland, 600 L Hauser Road, Onalaska, WI 54650 who requests to appear before the Board of Zoning Appeals for the purpose of requesting a variance for the maximum setback for the construction of a new 5-unit building with a non-traditional building orientation at the properties located at 2215, 2217, 2219, 2221, 2223 Abbey Road, Onalaska, WI 54650.
5. Consideration and Approval of 2019 Board of Zoning Appeals Meeting Schedule.
6. Adjournment

PLEASE TAKE FURTHER NOTICE that members of the Common Council of the City of Onalaska who do not serve on the Board may attend this meeting to gather information about a subject over which they have decision making responsibility.

Therefore, further notice is hereby given that the above meeting may constitute a meeting of the Common Council and is hereby noticed as such, even though it is not contemplated that the Common Council will take any formal action at this meeting.

NOTICES MAILED TO:

Mayor Joe Chilsen	*Craig Breitsprecher
**Ald. Jim Binash	*Brent Larson
Ald. Jim Olson	*Robert Wehrenberg
Ald. Gerry Every	*Kristen Odegaard
*Ald. Diane Wulf – Chair	
Ald. Kim Smith	Terry Weiland
*** Ald. Ron Gjertsen	
City Attorney	
City Administrator	
La Crosse Tribune	
Dept. Heads	
Coulee Courier	
WKTY WLXR WLAX, WKBH	Onalaska Omni Center
WLSU WKBT WXOW FOX	Onalaska Public Library

*Committee Members ** Alternate ***2nd Alternate

Date Notices Mailed/Posted: 11-12-2018

In compliance with the Americans with Disabilities Act of 1990, the City of Onalaska will provide reasonable accommodations to qualified individuals with a disability to ensure equal access to public meetings provided notification is given to the City Clerk within seventy-two (72) hours prior to the public meeting and that the requested accommodation does not create an undue hardship for the City.



CITY OF ONALASKA

STAFF REPORT

Board of Zoning Appeals – November 19, 2018

Applicant/Property Owner:	Terry Weiland, 600 L Hauser Road, Onalaska, WI 54650
Site Address:	544 2 nd Avenue North, Onalaska, WI 54650
Parcel No:	18-4511-315
Zoning District:	Multi-Family Residential (R-4)
Adjacent Land Uses:	Multi-Family and Single Family Residential (in Town of Onalaska)
Requested Action:	Request for a variance from R-4 Property Development Regulations in particular yard setback requirements and non-traditional building orientation.

The property in question is zoned Multi-Family Residential (R-4) and the variance request pertains to Tax Parcel # 18-4511-315 (containing 0.818 acres) where the applicant intends to construct a 5-plex/row house structure; a permitted use in this zoning district.

As shown in the attached Site Plan, the parcel contains an eighty (80) foot-wide Dairyland Power Line Right-of-Way easement located primarily along Abbey Road (eastern parcel boundary). The location of the Dairyland Power Line Right-of-Way easement does not allow the proposed development to build within the required setbacks with a “traditional” orientation. The proposed/requested setbacks for this development are as follows (and as shown on the Site Plan):

- **Street Yard:** approximately 60’ from northeast corner of structure and approximately 85’ from southeast corner of structure (72.5’ average) to Abbey Road (eastern parcel line).
- **Rear Yard:** 40’ from northern foundation of structure (includes 5’ parking lot setback, 20’ drive aisle, and 19’ driveways) to northern parcel line.
- **Side Yard:** 15’ from western foundation of structure to western parcel line.
- **Side Yard:** 14’ 10” from southern foundation of structure (includes five (5) 10’ x 10’ decks within the setback towards southern parcel line).

Public Hearing Notice:

A Public Hearing notice for the requested variances were posted on November 2nd and November 9th, 2018 at least seven days prior to the scheduled Public Hearing, and written notification was given to all neighboring parcels within two hundred and fifty (250) feet of said parcel.

Sections of the Zoning Code from which Variance is being Requested:

Sec. 13-2-8 (a-c), Code of Ordinances, City of Onalaska, Wisconsin states,
“Yards.

- **Street.** Minimum twenty-five (25) feet. Maximum forty (40) feet. (*Increase maximum setback*).
- **Rear.** Minimum thirty (30) feet. (*Allow non-traditional building orientation*).
- **Side.** Minimum ten (10) feet (*Allow decks within setback area on southern parcel line*).

Consistency with the Comprehensive Plan:

The Comprehensive Plan’s Future Land Use Plan identifies this parcel as *Mixed Density Residential District*. This district is intended for residential units. Higher density residential development may be appropriate in locations adjacent to transportation corridors, commercial areas, and schools.

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Decision Criteria:

The requested variance is a:

- Area variance – *Provides an increment of relief from a physical dimensional restriction such as a building height or setback. The applicant has the burden of proof to demonstrate that unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions “unnecessarily burdensome”.¹*
- Use variance – *Permits a landowner to put a property to an otherwise prohibited use. The applicant has the burden of proof to demonstrate that they would have no reasonable use of the property without a variance.¹*

For the Board of Zoning Appeals to grant a variance, it must find that all the following criteria are met²:

- I) *Denial of variance may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.*

Yes – criteria has been met. Due to the location of the Dairyland Power Line Right-of-Way easement and the associated easement restrictions, construction of the building is not allowed in this area. While such other Power Line Right-of-Ways exist elsewhere in the City, few are located on vacant, developable parcels. The Abbey Road Development (south of the parcel in question) had a similar issue; but was able to utilize a Planned Unit Development to dictate setbacks as they chose. Staff believes that this is a unique circumstance to this particular parcel and is not a recurrent situation.

- II) *The conditions upon which a petition for a variance is based are unique to the property for which variance is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.*

Yes – criteria has been met. The other parcels in this area where the Dairyland Power Line easement exist (excluding Abbey Road Development as previously mentioned), are not impacted to the degree of this parcel and have found other avenues to allow for development. Without this variance, the parcel as zoned would not be able to be developed.

- III) *The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.*

Yes – criteria has been met. There is no indication that the purpose of the requested variance is based exclusively upon value or income potential motivations. As indicated in the application, approving this variance will cause additional costs (increased driveway lengths and utility lengths).

- IV) *The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.*

Yes – criteria has been met. The requested variance is not believed to be detrimental to adjacent properties or the public welfare. However, as a public hearing will be held, testimony from the public should be listened to and considered before deciding on the requested variance.

¹ Markham, L. & Roberts, R. (2006) *Zoning Board Handbook: For Wisconsin Zoning Board of Adjustment and Appeals* (2nd ed.).

² As required by Sec. 13-8-44, Code of Ordinances, City of Onalaska, Wisconsin.

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- V) *The proposed variance will not undermine the spirit and general and specific purposes of the Zoning Code, specifically the standards of Section 13-1-6.*

Yes – criteria has been met. The requested variance is not believed to undermine the spirit of the Zoning Code as the development upholds legislative purpose and intent of the Zoning Code Sections 13-1-6 (c) & (h) which state, “to protect the character and the stability of the residential, business, manufacturing and to other districts within the City and to promote the orderly and beneficial development thereof” and “to stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the City.

Staff recommends approval of the proposed variance, as staff believes that all five (5) criteria have been met.

Staff recommends the following Conditions of Approval if Board of Zoning Appeals should approve the variance request:

- 1) Property owner to obtain Building Permits and State Plan Approvals as needed prior to construction activities.
- 2) Any omissions of any conditions not listed shall not release the property owner/developer from abiding by the City’s Unified Development Code requirements.
- 3) All conditions run with the land and are binding upon the property owner and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original property owner from meeting any conditions.



CITY OF ONALASKA

415 MAIN STREET
ONALASKA, WISCONSIN 54650-2953

PLANNING / ZONING DEPARTMENT

Request for Variance

Board of Zoning Appeals, City of Onalaska, WI

Application Fee: \$300.00

Date 10/24/18

I (we), TERRY WEILAND, the owner(s) of the following described property, do hereby make request to appear before the Board of Zoning Appeals to seek a variance from the City ordinance requirement that:

MAX SET BACK OF BUILDING

For the purpose of: CONSTRUCTING A NEW 5-UNIT BUILDING

DESCRIPTION OF PROPERTY:

Tax Parcel # 18-4511-315 Street Address 2215 - 2217 - 2219 - 2221 - 2223
ABBEEY RD

- PLEASE ATTACH: Application Fee of \$300.00
 Copy of Plot/Site Plan (include parcel dimensions, setbacks, structures, paving, etc.)
 Site Photographs

Owner Information - (attach additional sheet if more room is needed)

Name of Owner (printed) <u>TERRY WEILAND</u>	Phone Number <u>7926348</u>	Address <u>600 L. Hausen Rd</u>
Signature 		City, State, Zip <u>ONALASKA, WI 54650</u>
Name of Owner (printed)	Phone Number	Address
Signature		City, State, Zip

Contact Person if other than Owner

Name of Contact (printed)	Phone Number	Address
Signature		City, State, Zip

For Office Use: Date Complete Application Received: 10/24/18 Initials: WA

Enclosures: \$300 Filing Fee Response to 5 Criteria Plot/Site Plan/Site Photographs

OC#614

Rev. 11/13/15

CITY OF ONALASKA
 REC#: R00129013 10/24/2018 2:10 PM
 TRAN: 450 PLANNING & ZONING
 OPER: 02 TERM: 2
 TRBY: CASH 02

Request for Variance – CITY OF ONALASKA, WI

Please answer the following questions to help the Board of Zoning Appeals understand your requested variance. Your answers will be provided to the Board of Zoning Appeals as part of your application. As required by Sec. 13-1-6, Code of Ordinances, City of Onalaska, WI, in order for the Board of Zoning Appeals to grant a variance, it must find that the following criteria are met.

1. Unnecessary Hardship: Unnecessary hardship is present when compliance with the strict letter of dimensional requirements unreasonably prevents a property owner from using the property for a permitted purpose, or would render conforming to such requirement “unnecessarily burdensome”. Explain how you find your appeal meets this test: (Use additional paper if necessary.)

BECAUSE OF THE POWER COMPANYS EASEMENT
I AM UNABLE TO ~~MOVE~~ LOCATE THE BUILDING
ANY CLOSER TO THE STREET, NO BUILDING
DESIGN WILL MAKE ANY DIFFERENCE.

2. Unique physical characteristics of your property must be present. These include characteristics that prevent a proposed development from complying with the ordinance being appealed. Explain how you find that your property meets this standard:

ODD SHAPED LOT THIS PLAN IS
ABOUT THE BEST USE OF THE LAND

(Please continue on the next page.)

Request for Variance – CITY OF ONALASKA, WI

3. Explain if this request for a variance is based exclusively on motivations of value or income potential of the property:

BY THE INCREASE OF SET BACK
ACTUALLY MAKE THE COST INCREASE
DRIVEWAY LENGTH UTILITY HOOK UPS
HAVE LONGER LENGTHS

4. Explain why the granting of this variance will not be contrary to, or harm, the interest of the public:

I SEE NO HARM TO THE PUBLIC
THIS IS A UNIQUE SITUATION.

If you have any questions about completing this application, please feel free to contact the City of Onalaska's Planning / Zoning Department at 608-781-9590.

**PUBLIC HEARING NOTICE
CITY OF ONALASKA
BOARD OF ZONING APPEALS**

Please take notice that the Board of Zoning Appeals for the City of Onalaska will hold a public hearing on:

**MONDAY, NOVEMBER 19, 2018
6:30 PM**

in Onalaska City Hall, 415 Main Street, Onalaska, WI 54650, at which time they shall consider an application filed by Terry Weiland, 600 L Hauser Road, Onalaska, WI 54650 who requests to appear before the Board of Zoning Appeals for the purpose of requesting a variance for the maximum setback for the construction of a new 5-unit building with a non-traditional building orientation at the property located at 2215, 2217, 2219, 2221, 2223 Abbey Road, Onalaska, WI 54650.

Property is more particularly described as:

Computer Number: 18-4511-315

Section 29, Township 17, Range 7,

CERTIFIED SURVEY MAP NO. 132 VOL 17 LOT 3 DOC NO. 1718078

YOU ARE FURTHER NOTIFIED that the Board of Zoning Appeals will hear all persons interested, their agent or attorney, concerning this matter.

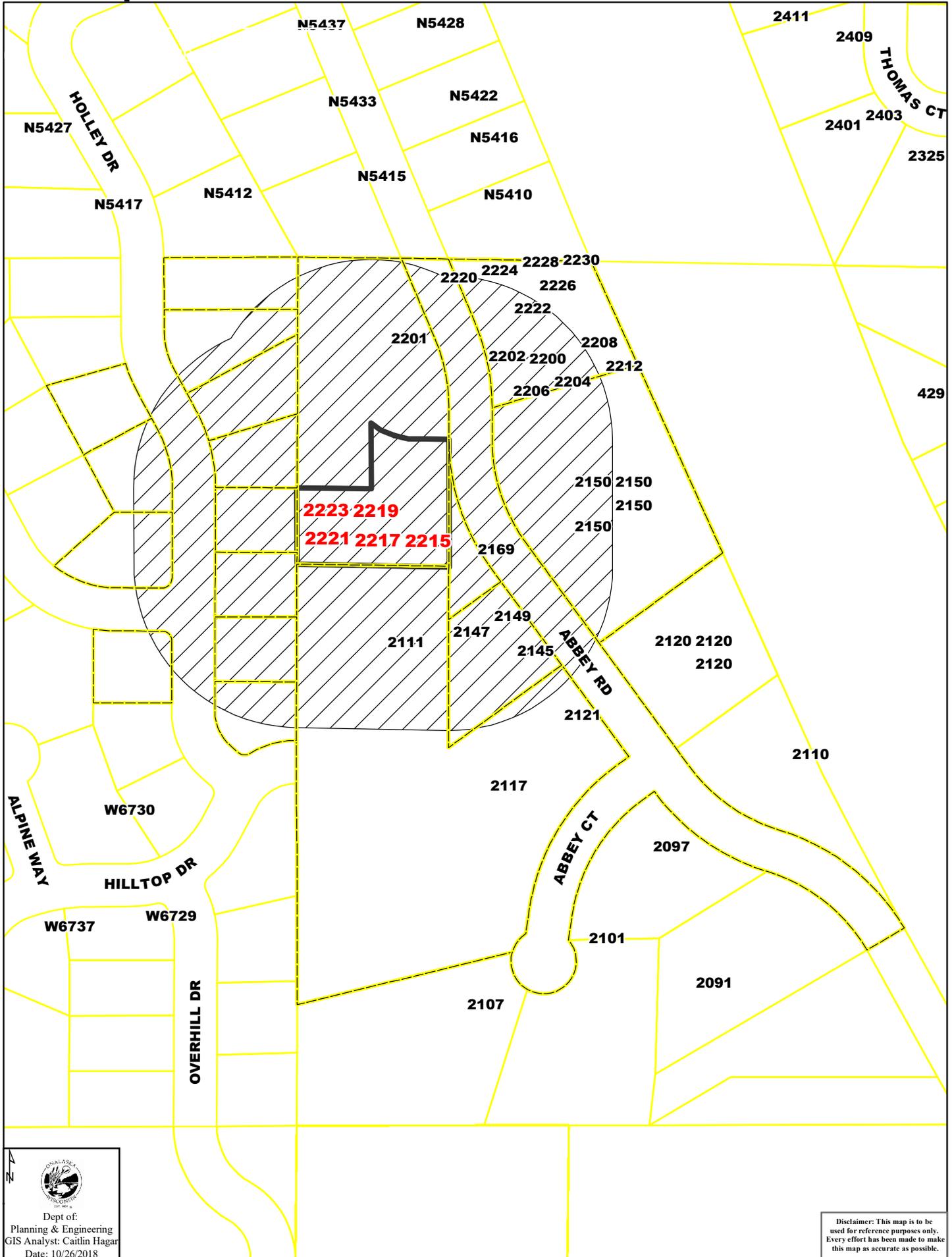
More detailed information on this item will be posted to the City of Onalaska website www.cityofonalaska.com the Friday before the scheduled meeting under Agendas & Minutes/Board of Zoning Appeals. This posting will contain the Board of Zoning Appeals Agenda and all attachments referencing this item.

Dated this 2nd day of November, 2018.

Cari Burmaster

City Clerk

Proposed Addresses for Parcel No. 18-4511-315



CITY OF ONALASKA
2019 APPLICATION DEADLINES
AND CITY MEETING SCHEDULE

Board of Zoning Appeals

Application Submittal Deadline (approximately 18 working days prior to BOZA meeting date)	Board of Zoning Appeals Meeting (6:30 P.M.)
December 19, 2018	January 21, 2019
January 23	February 18
February 20	March 18
March 20	April 15
April 24	May 20
May 22	June 17
June 19	July 15
July 24	August 19
August 19	September 16
September 25	October 21
October 23	November 18
November 18	December 16
December 16	January 20, 2020

The Board of Zoning Appeals only meets when applications are submitted.

All applications should be accompanied by a scaled site plan showing all dimensions, lot lines, setbacks, structures, landscaping, paving, etc.

Please contact the Planning and Zoning Department at (608) 781-9590 if you have any questions.