

  
CITY OF **M**ILTON  
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**AGENDA**  
**City of Milton**  
**Zoning Board of Appeals**  
**Thursday, December 1, 2016**  
**5:30 p.m.**  
**MILTON CITY HALL**  
**Conference Room**  
**710 S. Janesville Street**

1. Call to order
2. Approve Agenda
3. Approve Minutes – August 2, 2016
4. Public hearing to consider a request received from Casey's Marketing Co. for a variance to allow a 15'x 40' addition to their building. The request is to reduce the rear yard setback to 3'10" per section 78-684(5) of the City of Milton Code of Ordinances.
5. Discussion and action regarding a request received from Casey's Marketing Co. for a variance to allow a 15'x 40' addition to their building. The request is to reduce the rear yard setback to 3'10" per section 78-684(5) of the City of Milton Code of Ordinances.
6. General Items
7. Motion to Adjourn

\*\*Please note that upon reasonable notice, at least 48 hours in advance, efforts will be made to accommodate the needs to disabled individuals through appropriate aids and services. For additional information to request this service, please contact the City Clerk's office at 868-6900, 710 S. Janesville Street, Milton, WI 53563.

Notice is hereby given that a majority of the Common Council may be present at the Zoning Board of Appeals Committee meeting scheduled for above noted date and time to gather information about a subject over which they have decision-making responsibility. This constitutes a meeting of the City Council pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis. 2d 553, 494 N.W. 2d 408 (1993) and must be noticed as such, although the Council will not take any formal action at this meeting.

Posted by: Elena Hilby  
11/23/16

**City of Milton**  
**Zoning Board of Appeals ~ Wednesday, August 2, 2016**

**Call Meeting to Order**

Clerk Hilby called the meeting to order at 6:00 p.m. T. Dosch nominated K. Holland as chairperson. L. Laehn seconded, and the motion carried.

Present: Larry Laehn, Bruce Lippincott, Tom Kevern, Theron Dosch, Carl Schultz, and Ken Holland.

Also present: Director of Public Works Howard Robinson, City Administrator Al Hulick, and City Clerk Elena Hilby.

Excused absence: Jim Polarski.

**Approve Agenda**

B. Lippincott moved to approve the agenda. C. Schultz seconded, and the motion carried.

**Approve Minutes – October 5, 2015**

L. Laehn moved to approve the minutes. T. Kevern seconded, and the motion carried.

**Public hearing to consider a request received from Tim Rubitsky, 317 Golden Lane, for a Variance to allow a front deck to be constructed. The request is to exceed the allowable front yard setback for R-3 per section 78-404(4) of the City of Milton Code of Ordinances.**

Chairperson Holland opened the public hearing at 6:02 p.m.

DPW Director Robinson explained the situation and why a variance would be needed. DPW Director Robinson said there have been no objections.

Tim Rubitsky of 317 Golden Lane spoke in support of the variance.

Mike Sessler of 318 Golden Lane spoke in support of the variance.

Chairperson Holland closed the public hearing at 6:17 p.m.

**Discussion and action regarding a request received from Tim Rubitsky, 317 Golden Lane, for a Variance to allow a front deck to be constructed. The request is to exceed the allowable front yard setback for R-3 per section 78-404(4) of the City of Milton Code of Ordinances.**

Discussion among the group followed.

Chairperson Lippincott read the standards that must be taken in consideration when granting or denying a variance.

Unnecessary Hardship - which is a situation where, in the absence of a variance, an owner can make no feasible use of a property, or strict conformity, is unnecessary burdensome.

Unique Property Limitation – a unique physical characteristic of the property, not the desires of or condition personal to the applicant, must prevent the applicant from development in compliance with the zoning ordinance. They determined this property is unique by how large it

is for a B-3 zoned area. It was also decided that strict conformity would lead to lack of modernization which is not desirable for the city.

Protection of the Public Interest – in granting of a variance must neither harm the public interest nor undermine the purposes of the ordinance. The board’s actions should be consistent with the objectives states in their local ordinance, which (in the case of a floodplains or shoreline ordinance) has been adopted to meet minimum state statutory requirements. There was no public opposition.

Additional Court – Established Principles – Violations by or variances granted to neighboring owners do not justify a variance. Variances attach to the property as a permanent right. Once a variance is granted, it is permanently attached to the property. A new owner of the property may make use of a variance that was granted to the previous owner if all of the conditions that are attached to the variance are met.

C. Schultz moved to grant a variance to Tim Rubitsky, to allow a variance for a wooden deck, railing, and roof, the width of the house with no enclosures as this is not to be made into an extension of the house. B. Lippincott seconded, and the motion carried.

**General Items**

None.

**Motion to Adjourn**

L. Laehn moved to adjourn the August 2, 2016 meeting at 6:23 p.m. C. Schultz seconded, and the motion carried.

Respectfully submitted,

Elena Hilby  
City Clerk

## Office of the Director of Public Works

**To:** City of Milton Zoning Board of Appeals, Mayor Anissa Welch, and Common Council Members  
**From:** Howard Robinson, Director of Public Works  
**Date:** 12/01/2016  
**Subject:** Public Hearing and Discussion and Possible Action to consider a request from Casey's Marketing Co. for a variance to allow a setback exception for a building addition at 464 S. John Paul Road.

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### **Discussion**

Casey's Marketing Co. has requested a variance to reduce their rear yard setback to 3'10". A setback minimum of 25' would be the standard setback for this zoning. They currently have an 11' setback variance for the existing building. If a variance is granted it would be for only the new addition portion of the building as indicated on the drawing. Included are the new site plan, existing variance, and plot plan of the surrounding lots. If a variance is granted Casey's will then proceed with submitting a site plan to the Plan Commission.

### **Staff Recommendation**

None

### **Attachments**

- Notice of Public Hearing
- Variance Application
- Site Plan Materials
- Existing Variance
- Plot Plan



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### NOTICE OF PUBLIC HEARING

The City of Milton Zoning Board of Appeals will hold a public hearing on Thursday, December 1, 2016 at 5:30 p.m. in the City Hall conference room, 710 S. Janesville Street, to consider a request received from Casey's Marketing Co. for a Variance to allow a 15' x 40' addition to their building. The request is to lower the rear yard setback to 3 feet 10 inches per section 78-684(5) of the City of Milton Code of Ordinances. This property is located at 464 S. John Paul Rd, Milton, WI. This property is zoned B-2 (Business).

**Code of Ordinance:** Sec. 78-684(5)

Area requirements in the B-2 district are as follows:

(5) Rear yard setback: 25 feet (50 feet when adjoining a residential district).

All interested persons or their agents will be heard at said hearings after which final determinations will be made. This notice is given under Section 78 of the Municipal Code of Ordinances. Notice of Public Hearing is mailed to property owners within 250 feet of the subject property. The distance is measured from all corners of the subject property.

Elena Hilby, City Clerk/Deputy Treasurer

Request received in office: 11/14/2016

Published in the Milton Courier: 11/24/2016

Copies mailed to the following: 11/17/2016

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Lou Holdings LLC, 403 W High St, Milton, WI 53563-1629  
Casey's Marketing, PO Box 3001, Ankeny, IA 50021  
Link D. Decker, 4703 N County Rd KK, Milton, WI 53563-8605  
John R. Schmidt, 8929 N Wood St, Milton, WI 53563-9180  
Nerone S. Soetaert, 444 Elm St, Milton, WI 53563  
Milton Masters LLC, 6430 Bridge Rd #230, Madison, WI 53713  
Town of Milton, 23 1st St, Milton, WI 53563-1122  
James S. & Angela D. Stewart, 448 Elm St, Milton, WI 53563  
Steven M. Farmer, 454 Elm St, Milton, WI 53563  
Backyard Properties of Rock County LLC, 1171 N Parker Dr, Janesville, WI 53545-0711  
David J. & Lori J. Warren Trust, 4237 N County Rd KK, Milton, WI 53563  
School District of Milton, 448 E High St, Milton, WI 53563  
Purnell Bros Inc, 58 Artisan Dr, Edgerton, WI 53534  
Robert P. Tracey, 1817 N Parker Dr, Janesville, WI 53545  
Kelly R. Zulfer & Mariah N. Rucker, 440 Elm St, Milton, WI 53563-1207

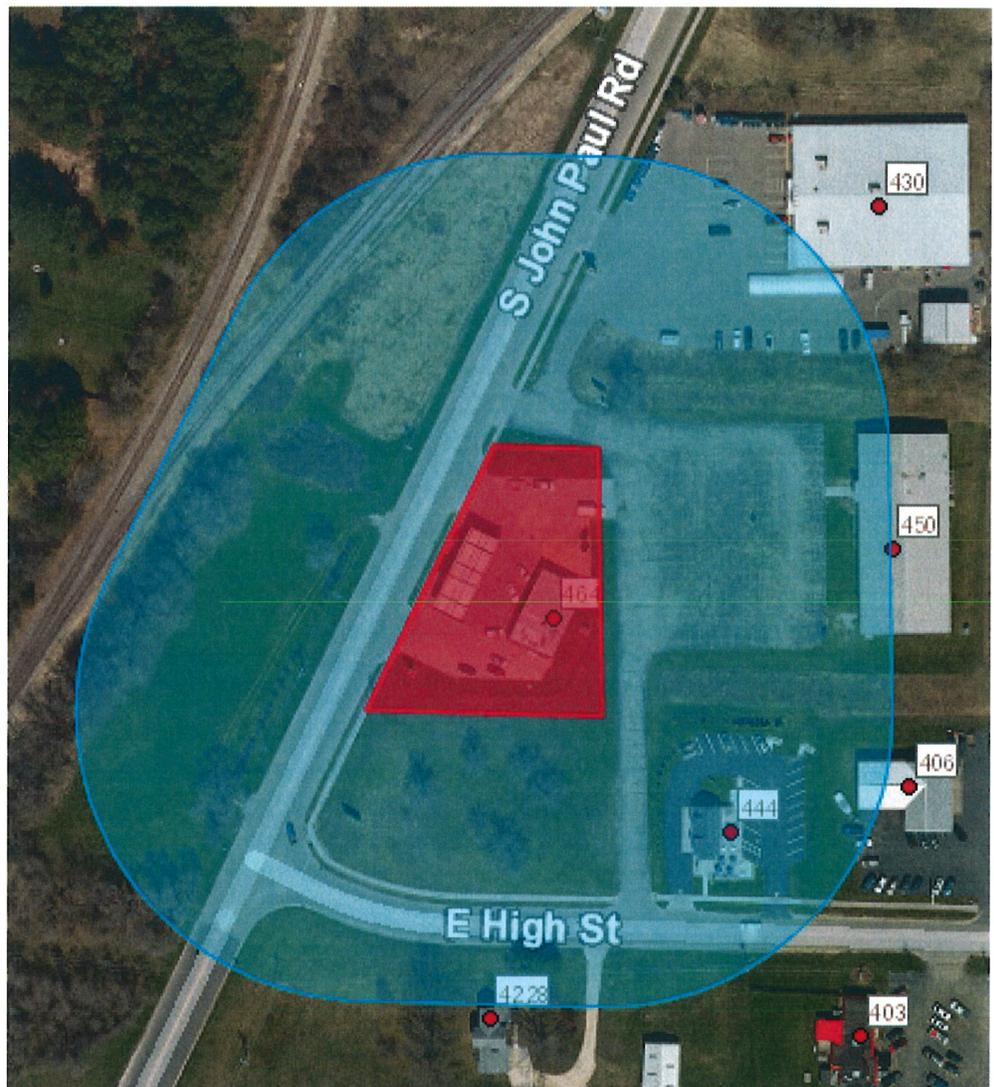
Mayor, Anissa Welch  
City Administrator, Al Hulick  
City Attorney, Mark Schroeder  
City Clerk, Elena Hilby  
Director of Public Works, Howard Robinson  
Police Chief  
City Assessor, Lee De Groot

Common Council Members  
Ald Dave Adams  
Ald Lynda Clark  
Ald Nancy Lader  
Ald Theresa Rusch  
Ald Maxine Striegl  
Ald Jeremy Zajac

Plan Commission Members: Mayor Anissa Welch, Ald. Nancy Lader, Ethel Himmel, Dave Ostrowski, Bob Seales, Frank Green, Al Hulick and Howard Robinson.

Individuals who are unable to attend the Public Hearing may submit comments to:

- MAIL: Milton City Hall, 710 South Janesville Street, Milton WI 53563
- E-MAIL: [ehilby@milton-wi.gov](mailto:ehilby@milton-wi.gov) or [hrobinson@milton-wi.gov](mailto:hrobinson@milton-wi.gov)
- PHONE: 868-6900
- FAX: 868-6927





# City of Milton Application and Record

Application Date: 11-02-2016 Date to be Reviewed by Plan Commission: \_\_\_\_\_

Applicant Name/Agent: RICK FIDLER AGENT Date to be Reviewed by Common Council: \_\_\_\_\_

Owner of Property: CASEYS MARKETING CO. Date to be Reviewed by Zoning Board of Appeals: 12-1-16 @ 5:30p

Business Name: CASEYS GENERAL STORE

Address: 3305 SE DELAWARE AVE.

City/State/Zip: ANKENY, IA 50021

Telephone: 515-965-6100

Email: RICK.FIDLER@CASEYS.COM

Fee Required:	Date Paid
Conditional Use Permit \$250.00	
Rezoning \$250.00	
Variance \$250.00	11-24-16

Reason for Request/Appeal or Reason Permit was Refused: \_\_\_\_\_

REAR YARD VARIANCE NEEDED FOR NEW 15'x40' BLDG. ADDITION  
3'-10"

Ordinance Sec. 78-684(5) Rear yard setback: 25 feet  
Tax ID: 257 139002051

### Property Location for Project

Address: 464 S. JOHN PAUL ROAD MILTON, WI 53563

Legal Description: THAT PART OF LOT 4, OF CERTIFIED SURVEY MAP RECORDED AS  
DOCUMENT #1091622 IN VOLUME 13, PAGES 525, 526, 527, 528 OF CERTIFIED  
SURVEY MAPS OF ROCK COUNTY, WISCONSIN.

Description of Premise (Including Existing and Proposed Buildings): \_\_\_\_\_

CONVENIENCE STORE EXISTING 40'x68' ADDITION 15'x40'

Current Zoning: (circle one) A1 A2 B1 **(B2)** B3 C1 C2 M1 M2 MR R1 R2 R3 R4 PUD SP

Proposed Zoning: (circle one) A1 A2 B1 B2 B3 C1 C2 M1 M2 MR R1 R2 R3 R4 PUD SP

Present Use: CONVENIENCE STORE w/GAS SALES

Proposed Use: GAME

Present Occupancy: \_\_\_\_\_ Proposed Occupancy: \_\_\_\_\_

Name of Proposed Subdivision: \_\_\_\_\_

Surveyor's Name: \_\_\_\_\_ Address: \_\_\_\_\_

Property Lot Size: 33,628 sq ft. (square feet or acres)

Lot Size of Preliminary Land Division: \_\_\_\_\_ Lot Size of Final Land Division: \_\_\_\_\_

Building Setback Front: 35' Side: 20' Rear: 11'

Building Setback Corner: \_\_\_\_\_ Side: \_\_\_\_\_ Rear: \_\_\_\_\_

Number of Stories: 1 Number of Rooms: 7 Height: 13'-7"

Architect: DON GROWERT General Contractor: COMMERCIAL CONSTRUCTION CONSULTANTS

Off Street Parking: 8 Number of Stalls: \_\_\_\_\_

Estimated Cost of Work: \_\_\_\_\_

The undersigned hereby agrees that the foregoing information is true and accurate, and that if this permit or request is granted, all work will be done in accordance with this application and all the Ordinances of the City of Milton.

Applicant Signature: *Rick Fidler*

Print Name: RICK FIDLER

Recommendations by Director of Public Works: \_\_\_\_\_

Filed this 14<sup>th</sup> day of November, 20 16

*Howard Robinson* 11/14/16  
Director of Public Works / Building Inspector, Howard Robinson

*Elena Hilby*  
City Clerk, Elena Hilby

Publication Date: \_\_\_\_\_

Large Scale Commercial District (B-2)

Sec. 78-684. - Area requirements.

Area requirements in the B-2 district are as follows:

- (1) Minimum lot area: 15,000 square feet.
- (2) Minimum frontage on a public road: 70 feet.
- (3) Minimum lot width at the building line: 70 feet.
- (4) Front yard setback: 35 feet.
- (5) Rear yard setback: 25 feet (50 feet when adjoining a residential district).
- (6) Corner lot setback: 35 feet from all street lines.
- (7) Side yard setback: 20 feet (50 feet when adjoining a residential district).

(Code 1968, § 9.36(4)(A)—(G))

CITY OF MILTON  
710 S JANESVILLE STREET  
MILTON WI 53563

608-868-6900

Receipt No: 14.000145

Nov 14, 2016

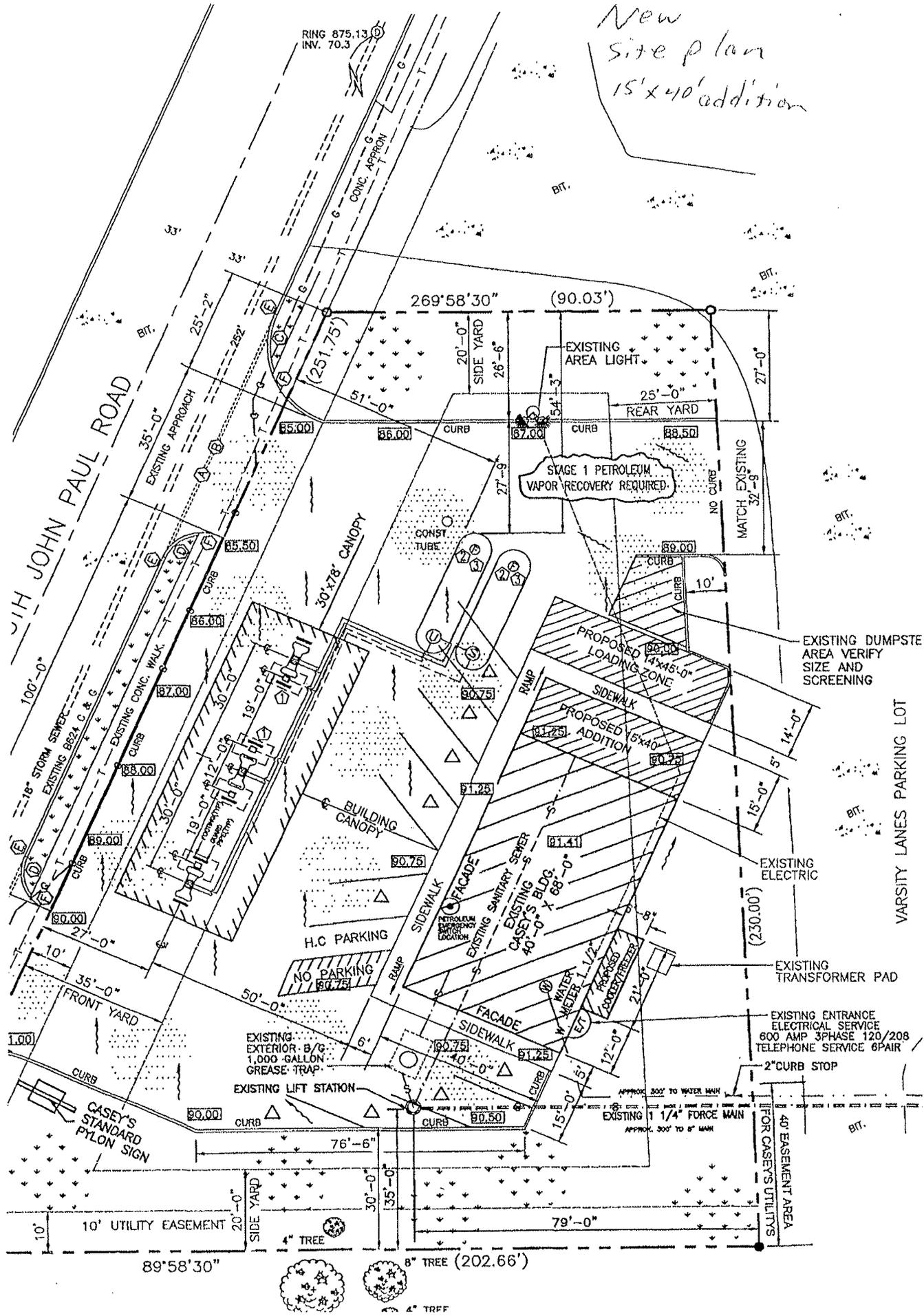
464 S John Paul Rd

Previous Balance:	.00
PERMITS - Variance Caseys	250.00
100-44400 ZONING PERMITS AND FEES	
<hr/>	
Total:	250.00
<hr/> <hr/>	
CHECK	250.00
Check No: 2836502	
Payor: Casey's General Stores	
Total Applied:	250.00
<hr/>	
Change Tendered:	.00
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11/14/2016 07:03AM

" = 20'

New site plan 15'x40' addition



*Howe*

Board of Zoning Appeals  
Milton, Wisconsin

RESOLUTION

WHEREAS, Casey's Marketing Company has requested a variance to the zoning ordinance to reduce the front yard and rear yard setbacks to allow for the construction of a convenience store with gasoline pumps as follows: the front yard setback from 35' to 18' for the canopy, the front yard setback from 35' to 26' for the pumps and the rear yard setback from 25' to 11' for the building on the property located near the corner of South John Paul Road and West High Street adjacent to the bowling alley.

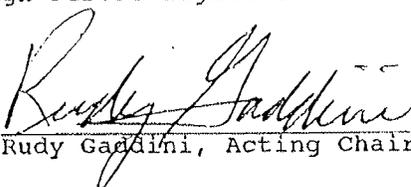
WHEREAS, a public hearing on the matter was held on October 23, 1996, to hear all interested parties, and

WHEREAS, to grant this variance appears to be within the jurisdiction of this Board, and

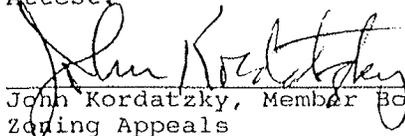
WHEREAS, no opposition was voiced by neighborhood property owners, and

WHEREAS, it appears that to grant this variance would not create a detriment to adjacent properties or impose on the rights of properties in the vicinity,

NOW, THEREFORE, BE IT RESOLVED, that the request of Casey's Marketing Company for a variance to the zoning ordinance to reduce the front yard and rear yard setbacks to allow for the construction of a convenience store with gasoline pumps as follows: the front yard setback from 35' to 18' for the canopy, the front yard setback from 35' to 26' for the pumps and the rear yard setback from 25' to 11' for the building on the property located near the corner of South John Paul Road and West High Street adjacent to the bowling alley, be granted.

  
Rudy Gaddini, Acting Chairperson

Attest:

  
John Kordatzky, Member Board of Zoning Appeals

Adopted: October 23, 1996

Case #8-1996

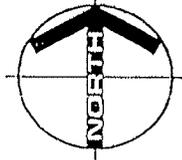
ROCK COUNTY CERTIFIED SURVEY MAP

LOT 4, C.S.M., VOL. 13, PG 525, 526, 527, 528  
 SE 1/4, SECTION 28, T 4 N, R 13 E  
 ROCK COUNTY, WISCONSIN

BEARINGS

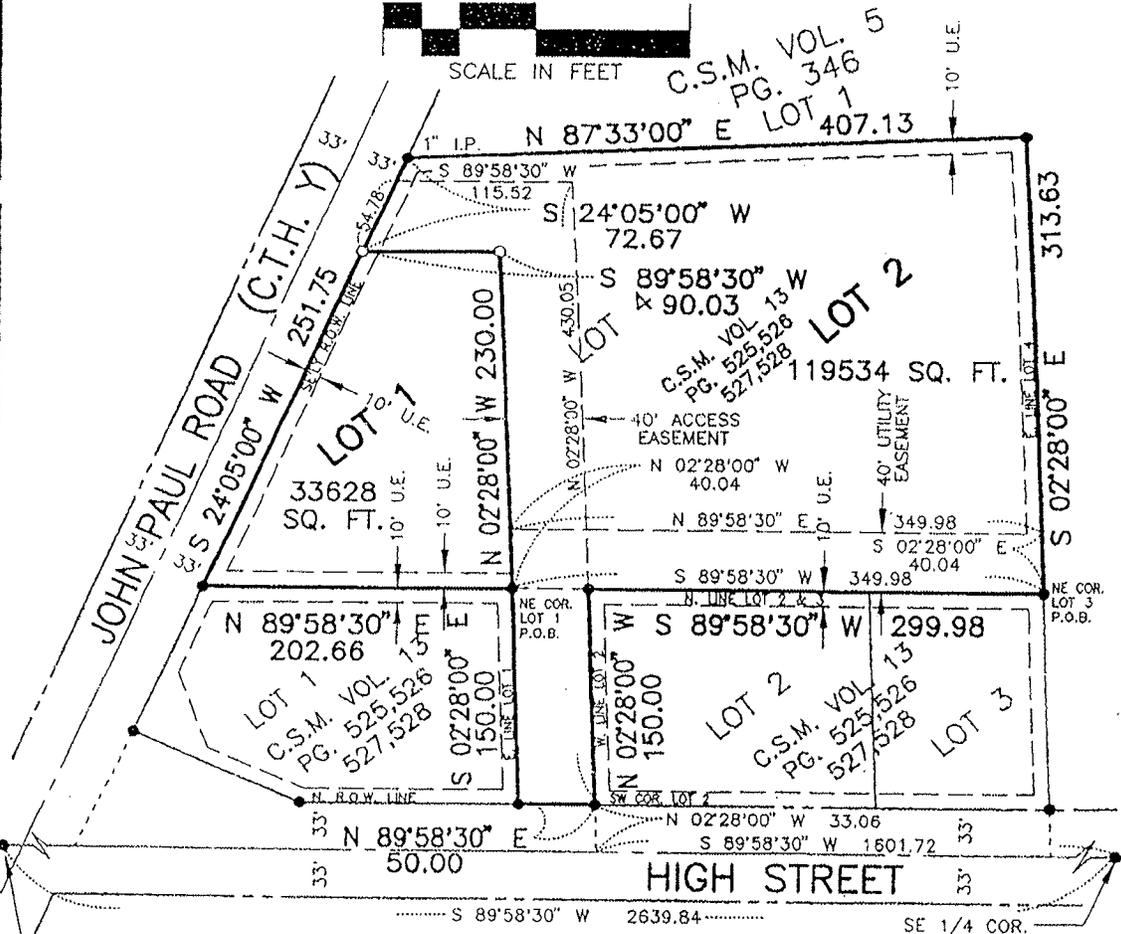
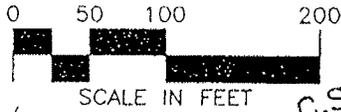
Plat Bearings are based on an assumed north. The south line of the SE 1/4 is assumed to bear S 89°58'30" W'.

All monuments set have a plastic cap stamped S-2234.



MONUMENTS

- SET 1" IRON PIPES
- FOUND MONUMENTS (3/4" I.P. UNLESS OTHERWISE NOTED)



SOUTH 1/4 COR.  
 SEC. 28-4-13  
 PIPE IN MON. BOX

SE 1/4 COR.  
 SEC. 28-4-13  
 ALUMINUM MONUMENT

SHEET 1 OF 4

PROJECT NUMBER 5078-96  
 DATE OF SURVEY 09/17/96  
 SURVEYED BY R. MASSEY  
 SURVEYED FOR NSD, INC.

LOT 4, C.S.M., VOL. 13  
 PG. 525, 526, 527, 528  
 SE 1/4, SECTION 28, T 4 N, R 13 E  
 ROCK COUNTY, WISCONSIN

ENGINEERS • ARCHITECTS  
 SURVEYORS • PLANNERS  
 LANDSCAPE ARCHITECTS  
 717 3RD AVENUE SE  
 ROCHESTER, MN 55904  
 507-288-6464  
 MASON CITY, IOWA  
 515-424-0351

