

# BOARD OF APPEALS OF THE CITY OF PLATTEVILLE



## AGENDA

**Monday, April 15, 2024 at 7:00 p.m.**

Council Chambers at City Hall  
75 N. Bonson Street  
Platteville, Wisconsin 53818

1. Call to Order
2. Approve Minutes: March 18, 2024
3. Variance: 85 Broadway Street – Todd & Stephanie Mumm (BA24-VA03-03)
  - a. Staff Presentation
  - b. Applicant Statement
  - c. Public Statements in Favor
  - d. Public Statements Against
  - e. Public Statements in General
  - f. Applicant Rebuttal
  - g. Board of Appeals Discussion & Action
  - h. Findings of Fact
4. Adjournment

If you have concerns or comments related to an item on this agenda, but are unable to attend the meeting, please send the comments to [carrollj@platteville.org](mailto:carrollj@platteville.org) or call 608-348-9741 x 2235.

**MINUTES**  
**CITY OF PLATTEVILLE ZONING BOARD OF APPEALS**

March 18, 2024 at 7:00 p.m.  
Council Chambers at City Hall

MEMBERS PRESENT: Dana Niehaus, Karen Lynch, Gene Weber, Todd Kasper  
ALTERNATE MEMBERS PRESENT: John Zuehlke  
MEMBERS ABSENT: Kevin Wunderlin  
ALTERNATE MEMBERS ABSENT: None  
STAFF PRESENT: Joe Carroll (Community Development Director), Ric Riniker (Building Inspector)

**APPROVAL OF MINUTES:**

Motion by Niehaus, second by Kasper, to approve the minutes of the September 18, 2023 meeting.  
Motion approved.

**VARIANCE REQUEST:**

**1035 Oakhaven Court – Mark and Amanda Witzig**

Carroll introduced the variance request from Mark and Amanda Witzig who seek a variance regarding the setback of an existing deck stairs and building addition.

Mark and Amanda Witzig own and reside on the property at 1035 Oakhaven Court. They purchased the property in 2021. Randy and Dawn Jenny are in the process of constructing a home on the adjacent property at 185 W. Knollwood Way. They purchased their property sometime after 2021 when it was two vacant lots (155 and 185 W. Knollwood Way).

In November of 2023 a Certified Survey Map (CSM) was created to combine the two Jenny parcels into the current lot. The CSM provided information to indicate that a patio and deck located on the Witzig property extend across the property line onto the Jenny property. The patio, deck and a storage addition located under the deck were constructed by the previous owner sometime between 2015 and 2020 and were in existence at the time the Witzig's purchased the property. The deck improvements were made without a building permit and were constructed in violation of the zoning ordinance. The deck and storage addition located under the deck do not meet the required side-yard setback. The deck extends 1.4 feet onto the Jenny property. The Witzigs are proposing to remove a portion of the deck and are seeking a variance for the remaining deck stairs and building addition that do not conform to the required side-yard setback.

To achieve compliance with the zoning ordinance, the applicant is proposing to remove a portion of the deck so that it will be even with the back of the house and will no longer encroach onto the adjacent Jenny property. The remaining portion of the deck will meet the required setback, but they would like to keep the deck stairs, which will be closer than the required 5 feet. They would also like to keep the basement storage addition that is located under the deck. The variance request will be for the location of the deck stairs within the 5' setback (approximately 2.5 feet), and the location of the storage addition within the 10' setback (approximately 5.5 feet). No changes are proposed for the patio.

From a legal perspective there is some question if the applicable standards have been met, but Staff believes a variance is warranted. If the Board agrees, the variance should be approved.

Applicant statement.

Mark Witzig provided more information regarding the request. They have begun talking to contractors regarding the removal of a portion of the deck. They would like to maintain the stairs to maintain access from the ground to the deck, but if needed the stairs could be removed. He informed the Board that they were not aware of the encroachment when they purchased the property and were fortunate to notice the patio encroachment right before the closing. The easement was drafted at the last minute after they noticed the location of the patio, but since the deck was not known to be an issue, that was not included in the easement.

After a question from the Board, he described the attempts to resolve the issue with the adjacent property owners, but no agreement was reached.

Public statements in favor. None

Public statements against.

Dawn Jenny spoke against the request as the owner of the adjacent property where the current encroachment exists. They would like to have all the improvements that were installed illegally be removed and brought into compliance with the zoning requirements. The improvements were installed without a building permit and in violation of the ordinance, so they shouldn't be allowed to remain.

She provided some information regarding the attempts between them and the Witzig's and City staff to find a resolution to the issue, but the two property owners couldn't come to an agreement.

Public statements in general. None

Applicant Rebuttal. None

Board Discussion.

The Board discussed the matter and questioned the owners regarding possibilities to find a resolution to the problem. The Board recognizes that the problem was created by the previous property owner and both of the current owners are not responsible for the issue and are victims of the situation. They appreciate the Witzig's decision to move forward with removing part of the deck in an attempt to improve the situation. Consensus of the Board is that the variance request is reasonable and seems to be a good solution to an unusual problem.

Motion by Kasper to approve the variance. Second by Niehaus. Motion was approved 5-0.

### **The Findings of Fact**

The Witzigs face an unnecessary burden due to the potential loss of the deck, stairs, and storage room based on a situation they didn't create.

The improvements have been there for several years and have not previously been an issue for the neighborhood.

This is a unique situation because the violation was created by the previous owner without knowledge of the City or either of the current owners.

## 450 N. Court Street – Platteville Fire Department

Carroll introduced the variance request from the Platteville Fire Department who seeks a variance regarding the side yard setback for the proposed new fire station.

In 2021 the City acquired the former OE Gray School property from the Platteville School District. The Council has identified this property as the future location of a new fire station. The existing school building will be demolished and replaced with a new building. Several options to locate the building on this site have been investigated to determine the best building and site layout. Acquisition of additional property at 220 W. Adams Street is also being pursued to provide adequate space and access.

The new building is being proposed to replace the current fire station located at 275 E. Main Street. The current building is outdated in many respects but has a primary issue with lack of space for the trucks and also lack of space for the administration and support activities. The proposed building will include an apparatus bay area, equipment storage, and areas for decontamination, gear cleaning, communication, offices, and a large training/community space – all on the main floor. The exterior site improvements will include parking for personnel when responding to fires, public parking for the community room, a stormwater detention area, exterior training space, and the exit and entrance drives for the apparatus bay. The property has frontage on Adams Street, Court Street, Lewis Street and Elm Street. The property slopes from the southeast corner to the northwest corner, with the flattest portion of the lot being to the east and south.

The building is still in the final design stage, so some modifications may yet occur. However, as proposed, the building will be 6'-1" from the nearest lot line along the western interior boundary of the property. Section 22.054(E) of the Zoning Ordinance requires a minimum side-yard setback of 15 feet, with a greater setback required for taller buildings (1 foot for each foot of building height). The height of the building at that location is currently 25'-4", which requires a setback of 25'-4". The designers are working on some modifications that will reduce the building width (approximately 4') and resulting setback, and that will reduce the building height (approximately 2'), which will reduce the required setback. Based on these potential changes, the current plan should be considered the worst-case scenario. The proposed setback of 6'-1" does not meet the required setback, so the Fire Department is requesting a variance to allow the closer setback.

Applicant statement.

Chief Simmons was available to answer any questions the Board may have.

Public statements in favor. None

Public statements against. None

Public statements in general. None

Applicant Rebuttal. Carroll mentioned that all the nearby property owners were notified of the request, but none have come forward to make any comments either for or against the request.

Board Discussion.

The Board recognized the need to have the building located where it is proposed. Since none of the neighbors have come forward to express any concerns, it appears that there are not impacts that need to be considered.

Motion by Weber to approve the variance. Second by Lynch. Motion was approved 5-0.

**The Findings of Fact**

The variance is necessary to locate the building where proper fire truck access can be provided.

No concerns have been expressed by the neighbors, so there must not be any significant public impact.

The project is necessary for the benefit of the community.

**ADJOURN:**

Motion by Weber, second by Kasper, to adjourn. Motion carried unanimously.

\_\_\_\_\_  
Joe Carroll, Community Development Director

Approved: \_\_\_\_\_

# STAFF REPORT TO THE BOARD OF APPEALS

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**From:** Community Planning & Development Department

**Date:** April 15, 2024

**Re:** Variance from Zoning Ordinance

**Case #:** BA24-VA03-03

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**Request:** Variance from Section 22.052 of the Zoning Ordinance regarding the minimum side yard setback.

**Applicant:** Todd & Stephanie Mumm

**Location:** 85 Broadway Street

## Surrounding Uses and Zoning:

Direction	Land Use	Zoning	Comprehensive Plan
Property in Question	SF Residential	R-2	Medium Density Residential
North	SF Residential	R-2	Medium Density Residential
South	SF Residential	R-2	Medium Density Residential
East	SF Residential	R-2	Medium Density Residential
West	Commercial	CBT	Mixed Use

## BACKGROUND

1. The applicant owns an existing single-family home at 85 Broadway Street. The applicant would like to build an addition that would not meet the required side-yard setback.

## PROJECT DESCRIPTION

2. The property has a driveway and parking area on the south side of the house but does not have a garage. The applicant is proposing to construct a 22' wide by 30' deep, 2-car garage addition onto the south side of the house. The house is currently 23' from the south lot line, so the proposed addition would only be 1' from the lot line.
3. The minimum side-yard setback for principal structures is normally 10 feet but based on the size of the property (approximately 4,900 sq. ft.), this lot qualifies as a substandard lot. This designation means the required side-yard setback is reduced to 5 feet. However, even with this designation the proposed addition will not be adequate to meet the ordinance. Therefore, the applicant is requesting a variance from the minimum side yard setback requirement to allow the 1' requested setback.

## STAFF ANALYSIS

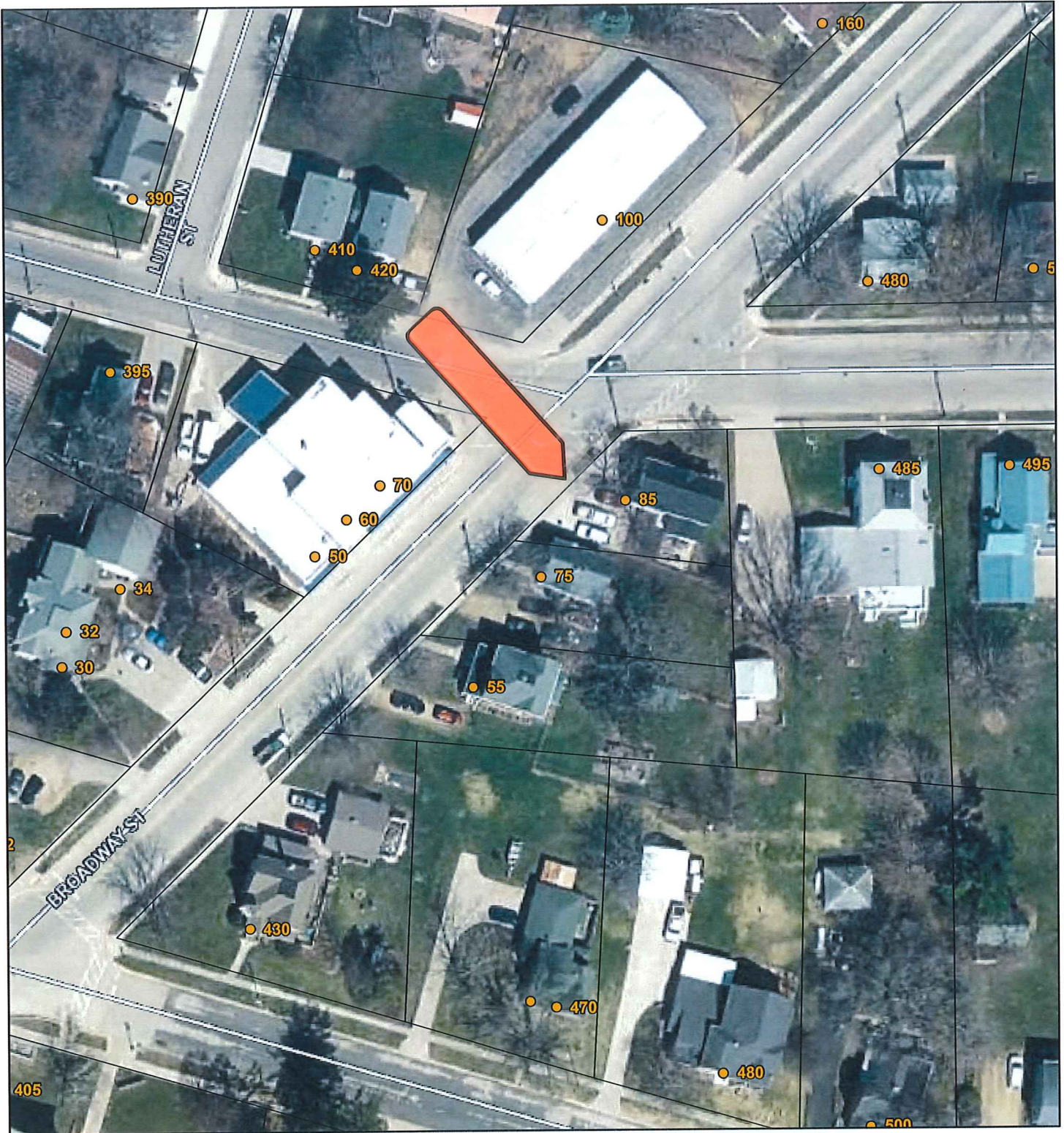
4. As with any variance request, there are three standards that must be considered. The first standard requires the applicant to show that a strict application of the dimensional standards in the Zoning Ordinance would lead to an unnecessary hardship. The Wisconsin State Supreme Court has determined that a hardship exists only when the applicant can show that the regulations would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The applicant has an existing house on the lot that is currently being used, and that can continue to be used. The ordinance would allow for a smaller, 1-car garage at the proposed location. The legal question is if not allowing the applicant to construct a 2-car garage would be an unnecessary burden. Staff believes it is questionable if the first standard has been met for the variance request.
5. The second standard requires the applicant to show that the hardship is due to some unique feature of the property, such as an odd shape or the presence of natural features. The lot is approximately 4,900 sq. ft. and has an unusual shape. The lot is much smaller than an average lot in the City and qualifies as a substandard lot in the zoning regulations. The small lot area and unusual shape makes it more difficult to meet setback requirements. Staff believes the second standard has been met for the variance request.
6. The third standard requires the applicant to show that the variance, if granted, will not have a negative impact on the public interest. The proposed structure would be closer to the south side lot line than is permitted, so the primary impact would be on the property to the south. There should be only a minor impact on other properties in the area. Overall, the proposed addition should have little to no impact on the general public. It is questionable if the third standard has been met for the variance request.

## STAFF RECOMMENDATION

7. It is questionable if this request has not met all of the standards needed for approval. If the Board feels the standards have not been met, then the variance should be denied.

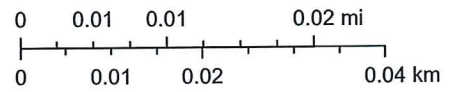
**ATTACHMENTS:** Location Map, Application, Project Sketches


# City of Platteville



4/1/2024, 9:34:02 AM

1:1,128



-  Centerlines
-  City Boundary
- Address Points (Data in Progress)
  -  Active
  -  Parcel Data (2023)





### General Reference Map Grant County, WI



 Tax Parcel Boundaries

The data provided in this document is for informational purposes only and Grant County assumes no legal responsibility for the information contained in this data. The burden for determining fitness for use rests entirely upon the user. Grant County assumes no liability for the accuracy of the data or responsibility for direct, indirect, special, consequential, exemplary or other damages. This document is not a legal survey nor is it intended to be used as such.

# MILLER'S ADDITION

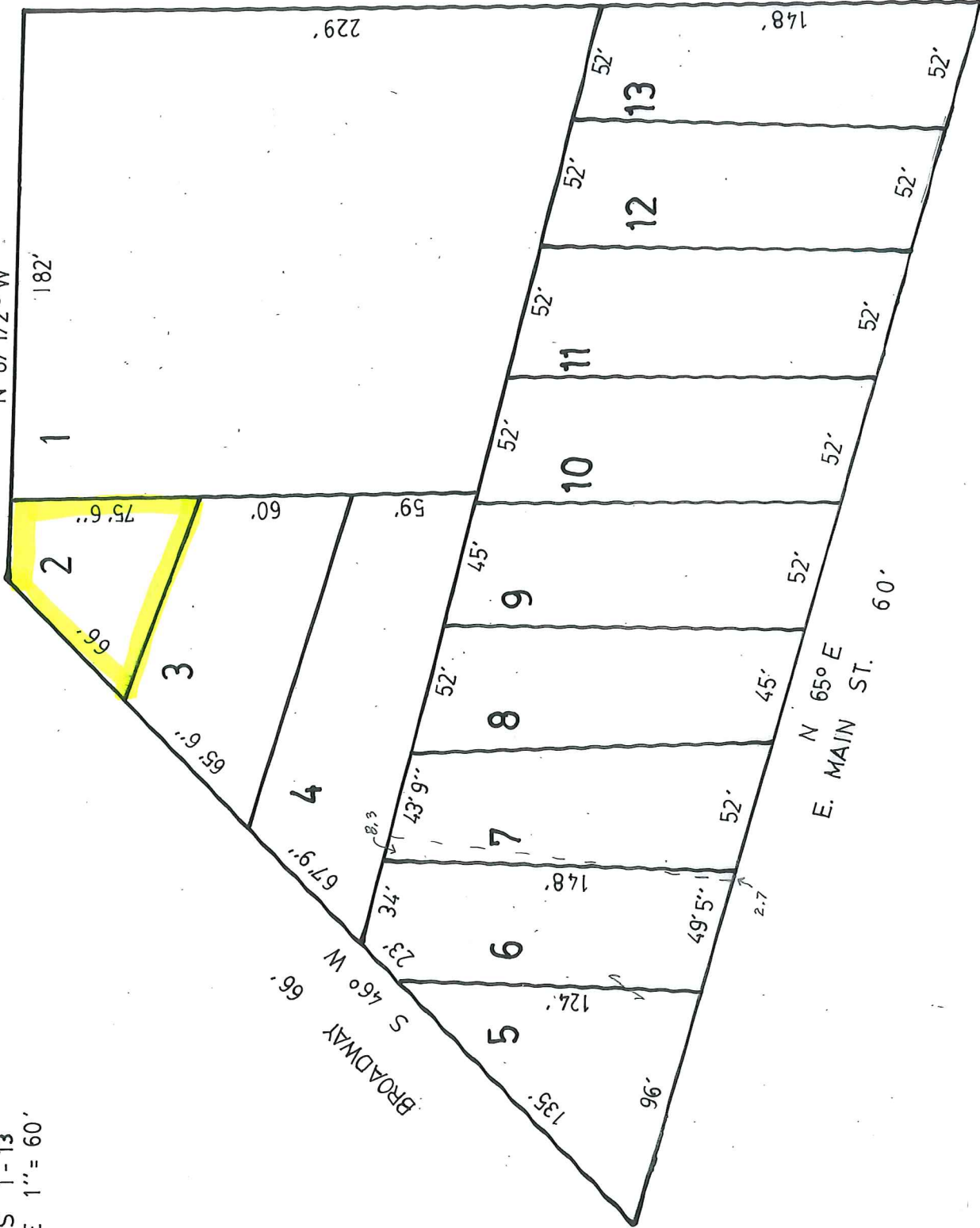
LOTS 1-13

SCALE 1" = 60'

E. MINERAL ST. 66'

N 87 1/2° W

182'



APPLICATION TO THE  
**BOARD OF APPEALS**  
 CITY OF PLATTEVILLE, WISCONSIN



**General Information** (please type or print clearly)

	Applicant/Agent	Owner
Name	Todd & Stephanie Mumm	
Address	85 Broadway Street	
Phone	608-732-5874	
Email	ttmumm@yahoo.com	

Type of Request:  Variance from Code Requirements  
 Appeal of Administrative Decision

**Property Information** (Attach additional sheets if necessary)

Address of Property in Question: 85 Broadway Street, Platteville, WI

Legal Description: Residence at corner of Mineral & Broadway Street

Current Use and Improvements: Home - residence

Proposed Use and Improvements: Attached garage to the residence

Dimensions:	Required	Requested
Street Yard	ft.	ft.
Left Side Yard	ft.	ft.
Right Side Yard	10 ft.	1 ft.
Rear Yard	ft.	ft.
Area	sq. ft.	sq. ft.
Other		

Is this a corner lot?  YES  NO

Zoning District: R-2

Code Reference (Section No.): 22.052(E)

**OFFICE USE ONLY**

Date Application Filed: 4/1/24 File Number: DA24-VA03-03

Board of Appeals Action & Date: APRIL 15, 2024 Fee Paid/Receipt #: Paid 4/1

Conditions: \_\_\_\_\_

**Subject:** Todd - garage

**Describe your appeal:**

We are writing to formally appeal the city ordinance that requires construction of property no closer than ten feet from the perimeter of the property line. We respectfully ask for an exception to be granted to permit full use of our property's dimensions given that this current ordinance imposes a restriction that prevents our ability to enhance our property with a garage, limiting functionality and value of our home. We are intending to construct a garage for additional storage space for vehicles, tools, and outdoor equipment, that would substantially improve our property's curb appeal. We are requesting approval to construct a garage on our property, x x x in dimension, that would require the full use of our property to accommodate. We respectfully urge for an exception to be granted so that we may be empowered as homeowners to responsibly improve and enhance our property while still preserving the integrity of the local ordinances.

**Unnecessary Hardship is present because:**

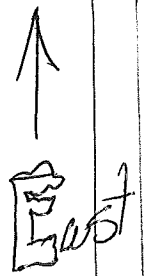
As homeowners and members of this community, we find ourselves in a predicament where the current regulations hinder our ability to construct a garage of the size necessary to accommodate our needs while complying with property regulations. The existing ordinance imposes constraints on the dimensions and design specifications of garages, which unfortunately do not align with the practical requirements of our property. Due to these limitations, we are unable to build a garage of the size needed to adequately store vehicles, tools, and outdoor equipment without violating the established property regulations. Therefore, it is our intention to seek a reasonable accommodation that allows us to enhance our property in a manner that is both functional and approved in a compliant manner with city ordinances.

**The hardship is due to unique features of the property in that:**

Our property is a small corner lot, offering limited space for development or expansion. The small size combined with the current ordinance requiring construction maintain at least ten feet from the property line prevents the construction of a standard double-stall garage. There is no means to build in compliance unless we are permitted to use the full dimension of our property.

**The variance will not be contrary to the public interest because:**

We have consulted and engaged with adjacent property owners regarding our intent to request an accommodation from the city to construct the garage on our property, leveraging the full size of our owned property. They have expressed no concerns nor will the construction affect their property. Rather, they have noted that a garage will improve the aesthetics and could potentially improve their own property's value with any improvements that increase curb appeal in our neighborhood.



Mineral Street

House

Current Addition

Concrete Pad

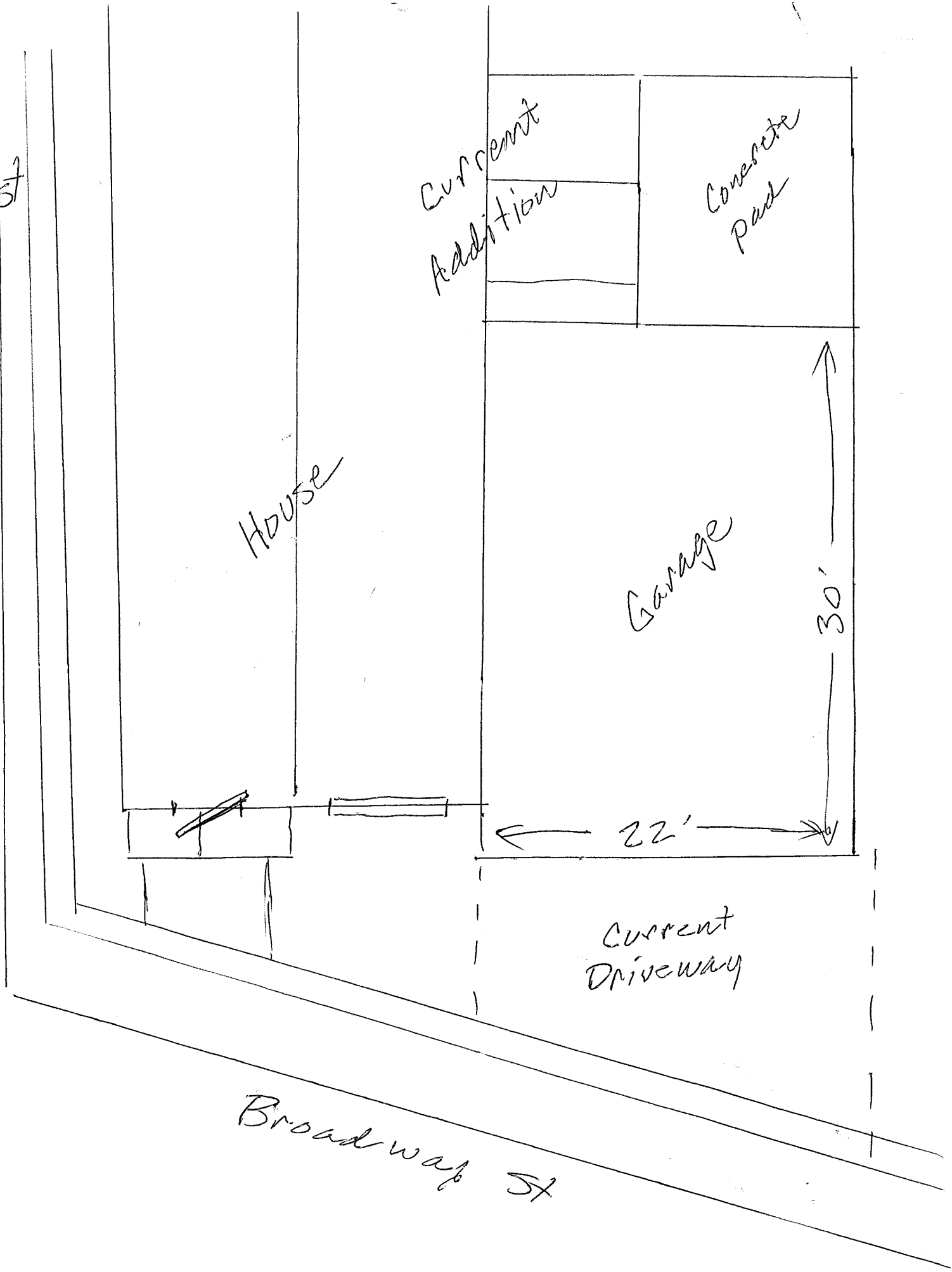
Garage

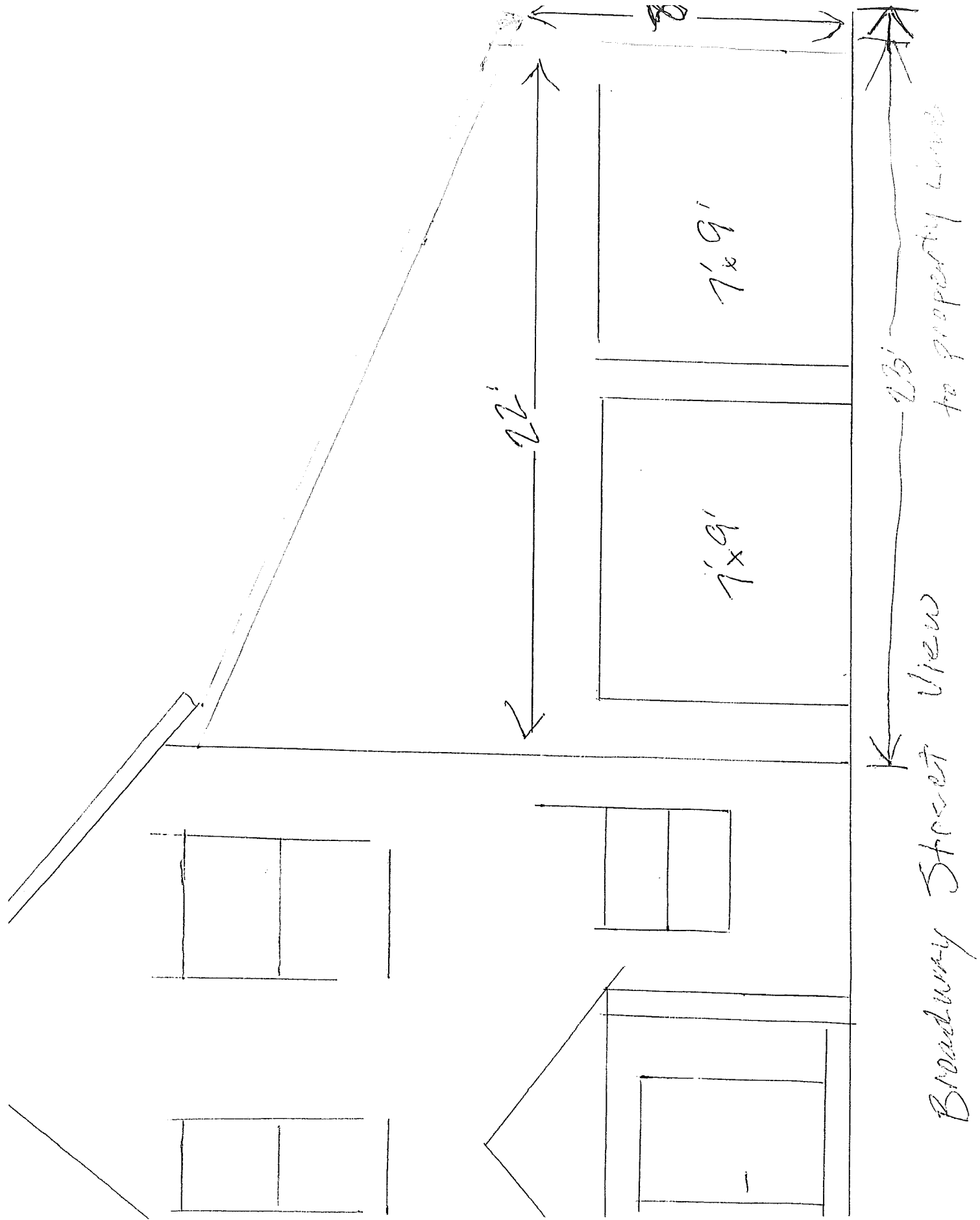
30'

22'

Current Driveway

Broadway St





23' to property line

Brady Street View

$7' \times 9'$

$7' \times 9'$

$22'$

23'

23'