



# **GREEN LAKE COUNTY**

**571 County Road A, Green Lake, WI 54941**

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The following documents are included in the packet for the *Green Lake County Board of Adjustment* business meeting and public hearing that is scheduled for **Friday, October 20, 2017**. The business meeting begins at 9:00 a.m. The public hearing will begin at 10:00 a.m.

**Packet Pages:**

1. Agenda
- 2-7. Minutes of 09/15/17
8. Public Hearing Notice
- 9-17. **Meeting materials for Public Hearing Item I:**  
**John Rozek – Town of Green Lake**



# GREEN LAKE COUNTY BOARD OF ADJUSTMENT

Carole DeCramer  
Board Secretary

Number: 920-294-4156  
Email: [cdecramer@co.green-lake.wi.us](mailto:cdecramer@co.green-lake.wi.us)

## Board of Adjustment Meeting Notice

**Date: October 20, 2017 Time: 9:00 AM**  
**Green Lake County Government Center, 571 County Road A, Green Lake, WI**  
**West Wing, Lower Level, County Board Room #0902**

### AGENDA

*All line items are subject to any and all action by this Board, unless noted.*

**Board of  
Adjustment  
Members:**

*Janice Hardesty  
Board Chair*

*Ron Triemstra  
Board Vice Chair*

*Kathleen Moore*

*John Gende  
Alternate 1*

*Vacant Alternate 2*

**NOTE:** Meeting area is accessible to the physically disabled. Anyone planning to attend who needs visual or audio assistance should contact Carole DeCramer at 920-294-4156 the day before the meeting no later than noon.

1. Call to order
2. Roll call
3. Pledge of Allegiance
4. Certification of open meeting law
5. Agenda
6. Minutes: 09/15/17
7. Adjourn for field inspection

**Public hearing matters will not begin before 10:00 a.m.**

8. Public hearing matters

**Item I: Owner/Applicant:** John Rozek **Site Description:** N2913 State Road 44, Parcel #006-01272-0000, Pleasant Point Plat Lot 1, Part of Government Lot 4 of Section 29, T15N, R13E **Request:** Section 350-38.E.(1) of the Zoning Ordinance to construct a 26'x 24' detached accessory structure that would be set back 29' from the front lot line; whereas, a 67' setback is required. Also covered within 350-38.E.(1) is the request for relief from the rear-yard setback, with the proposed structure 14' from the rear lot line; whereas, a 25' setback is required.

- a. Public Hearing
- b. Board Discussion & Deliberation
- c. Board Decision

9. Correspondence
10. Next meeting date
11. Adjournment

**GREEN LAKE COUNTY  
BOARD OF ADJUSTMENT  
Meeting Minutes – Friday, September 15, 2017**

**CALL TO ORDER**

The meeting of the Board of Adjustment was called to order by Chair Hardesty at 9:00 a.m. in County Board Room 0902 of the Government Center, Green Lake, WI. The requirements of the open meeting law were certified as being met.

Present: John Gende (alternate), Janice Hardesty, Kathleen Moore, Ron Triemstra

Absent:

Also present: Matt Kirkman, Land Use Planning and Zoning Director  
Krista Kamke, Code Enforcement Officer  
Carole DeCramer, Board Secretary  
Kate Worth, Worth Court Reporting

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

**Motion by Triemstra/Moore, unanimously carried, to approve the agenda.**

**APPROVAL OF MINUTES**

**Motion by Triemstra/Moore, unanimously carried, to approve the 08/18/17 minutes.**

**RECESS FOR FIELD INSPECTION**

Time: 9:01 a.m.

*Audio of Board discussion is available upon request from the Green Lake County Land Use Planning and Zoning Department.*

**PUBLIC HEARING MATTERS**

Board reconvened at 10:23 a.m.

Chair Hardesty read the Rules of Order.

**Item I: Owners/Applicants:** Jason A & Crystal G Hunt **Site Description:** N1165 Proscarian Road, Parcel #012-00393-0102, Lot 2 Certified Survey Map 3403, Part of the NE¼ of Section 21, T14N, R12E, ±1.3 acres  
**Request:** Variance request from Section 350-51 of the County Zoning Ordinance to alter a building within the highway setback.

- a. Public hearing

Jason Hunt, N1165 Proscarian Road – Spoke in favor of the request.

The Board discussed with Mr. Hunt the following:

- Will the building be repaired or rebuilt?

Hunt - It depends what is found when repairs begin. It is possible that the building is too far gone and a new building will have to be constructed. It is assessed at \$500 right now.

*-There is a conditional use permit for the commercial use. Are there conditions in that permit regarding the size and use of that building?*

Kirkman – The conditional use permit has conditions that stipulate that, if he’s adding a building to the business, the permit needs to be updated. This particular building was never a part of the business because it was being used for personal storage. To make this building part of the commercial use, Mr. Hunt would have to amend his conditional use permit.

Hunt: The building would be used for personal and commercial storage. Mr. Hunt also explained that he would like to have a wood shed attached to it for the wood stove. He asked the Board to consider the fact that the building is +100 years old. The dimensions are 34’X27’ and will stay two stories. It will be used for personal storage and for the commercial operation storage. Materials are now being stored outside on a skid loader.

*-What is the estimate for repairing the building?*

Hunt - \$35,000 to repair it. This includes the foundation. They may find that it isn’t worth repairing and a new building would have to be built. Building it in a new location could mean a huge excavation bill. It would be cheaper to fix or rebuild where it is.

*- There are other locations where the building could be built that would be code compliant. Have you considered those locations? Why are there so many vehicles parked there?*

Hunt – There is limited parking now. There are vehicles that are ready to be picked up, but the owners don’t come to get them for various reasons. Another issue is that we’re short of help right now and can’t keep up with the work so the vehicles sit until we can get to them.

*-(Directed to Kirkman) Does Green Lac County have the 50% rule?*

Kirkman: First of all, the ordinance does not allow for building within a highway setback. If it did, it would be subject to the 50% rule. However, if the Board of Adjustment were to issue this variance request, the Board of Adjustment would be allowing for the 50% rule to be exceeded.

Chair Hardesty read a letter of support from the Town of Manchester asking that the Board consider approving of this variance request (Exhibit 1).

The Board viewed a topographical map showing where there were two possible alternative sites for the building (Exhibit 2).

**10:52 a.m. Motion to close by Triemstra/Moore, unanimously carried, to close the public hearing portion of the meeting.**

b. Board discussion and deliberation to include relevant correspondence.

**Motion by Triemstra/Moore, for the purpose of discussion, to grant the variance request from Section 350-51 of the County Zoning Ordinance to alter a building within the highway setback.**

The Board discussed the three criteria for deciding a variance request:

*- Unnecessary hardship*

Moore – There are no unnecessary hardships; there are other locations for the building in the same area.

Hardesty – I can't justify the expense of fixing up an old building that is nonconforming when there is a place to build a code-compliant building.

Triemstra – Agreed that there are at least two locations where the building would fit. It would take some rearranging and excavation, but it's not a big economic thing to dig into the hill. The goal is to repair but he may have to replace it. The building, as it stands, has walls that have caved in and the ceiling rafters are rough-cut limber. There are alternate places to locate a building of this size or bigger.

- *Unique property limitations*

Hardesty – The property is unique with the property lines and slope. Parts have been leveled out and there are suitable areas for parking and storage. Some limitations have been rectified. I don't believe that the nonconforming building is the best use as it stands.

Moore – The terrain to the west is all in the 25' setback.

Triemstra – The uniqueness that may have existed may be gone. It's been excavated. Even in the northwest corner, it's a minimum to open up that corner. There is nothing that is unique about this site. Not having enough room does not make it unique.

Hardesty – The uniqueness is at the back of the property, not the front.

- *Harm to the public*

Moore – It is not appropriate to allow buildings in the highway right-of-way. If a town or utility company wants to work within the right-of-way, they would have to buy that portion of the building. It's a safety issue with people traveling that area.

Hardesty – There's a possibility that the building would have to be torn down and that would open up a can of worms.

Triemstra – If the building didn't exist and he asked for a variance to build a new one in that location, we would say no. There is a remote harm to the public. It is a concern with the location of that building or a new building.

c. Board decision.

**Roll call: Hardesty - nay, Moore - nay, Triemstra - nay.  
Motion denied.**

**CORRESPONDENCE - None**

**NEXT MEETING DATE**

October 20, 2017

**ADJOURN**

**Motion by Triemstra/Moore, unanimously carried, to adjourn.**

Time: 11:06 a.m.

**RECORDED BY:**

Carole DeCramer  
Board of Adjustment Secretary

**APPROVED ON:**

DRAFT

**TOWN OF MANCHESTER  
W2715 COUNTY ROAD S  
MARKESAN, WI 53946**

Green Lake County  
Board of Adjustment  
P.O. Box 3188  
Green Lake, Wi 54941

Dear Members of the Board of Adjustment,

During the Town of Manchester Board meeting on Monday, August 14, 2017, Mr. Jason Hunt presented his request for a variance to alter a building within the highway setback. Several of the board members had viewed the site and were familiar with his plan. Discussion was held and the Board expressed approval of this variance. The Board wishes to have this approval considered by the Green Lake County Board of Adjustment at the time of the public hearing on September 15, 2017.

Your consideration of this request is greatly appreciated.

Sincerely,



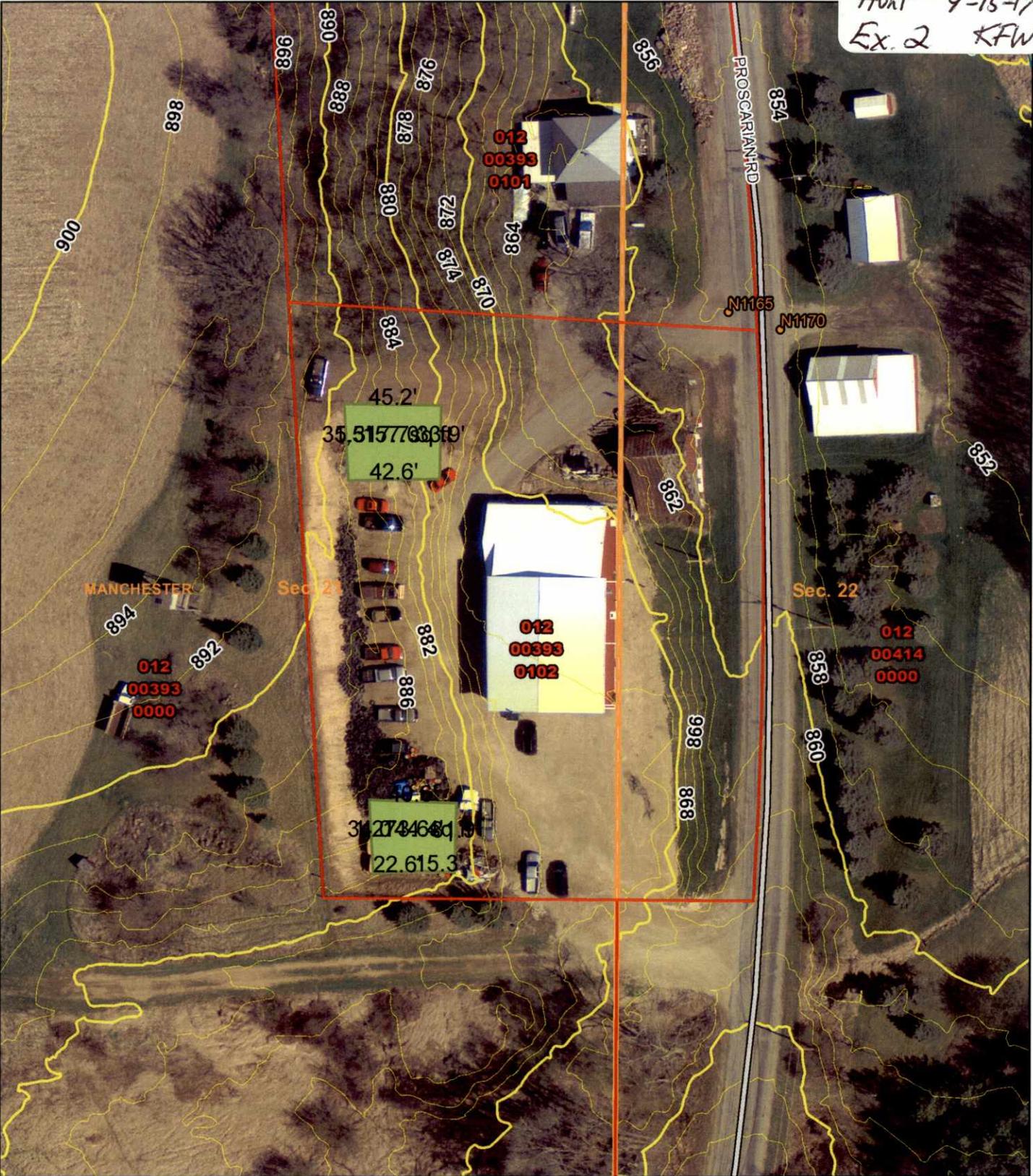
Corrine Krueger  
Town Clerk

cc: Jason Hunt  
Alan Vinz  
Brian Lager  
Dan Vinz

**EXHIBIT**

Hunt 9-15-17  
Ex 1 KFW

Hunt 9-15-17  
Ex. 2 KFW



**Hunt Variance Exhibit 2**

Green Lake County, WI

Time: 11:06:11 AM  
Date: 9/15/2017

Note:



1 inch = 64 feet



Geographic Information System (GIS)  
<https://gis.co.green-lake.wi.us/>

## NOTICE OF PUBLIC HEARING

The Green Lake County Board of Adjustment will hold a Public Hearing in County Board Room #0902 of the Green Lake County Government Center, 571 County Road A, Green Lake, Wisconsin, on **Friday, October 20, 2017, at 9:00 a.m.** The meeting will adjourn for site inspection of the following item:

**Item I: Owner/Applicant:** John Rozek **Site Description:** N2913 State Road 44, Parcel #006-01272-0000, Pleasant Point Plat Lot 1, Part of Government Lot 4 of Section 29, T15N, R13E  
**Request:** Section 350-38.E.(1) of the Zoning Ordinance to construct a 26'x 24' detached accessory structure that would be set back 29' from the front lot line; whereas, a 67' setback is required. Also covered within 350-38.E.(1) is the request for relief from the rear-yard setback, with the proposed structure 14' from the rear lot line; whereas, a 25' setback is required.

The Board of Adjustment will reconvene at approximately **10:00 a.m.** to consider the item listed above. All interested persons wishing to be heard at the public hearing are invited to be present. Please note that *it is not uncommon for an owner/applicant to withdraw a request at the last minute.* Call the Green Lake County **Land Use Planning and Zoning Department at (920) 294-4156** for further detailed information concerning this notice, to verify that the agenda item you may be interested in has not been withdrawn from the agenda, or for information related to the outcome of the public hearing item.

*Publish October 5, 2017 and October 12, 2017*



As noted by the owner, the proposed structure is less than the maximum allowed by the zoning district; he proposes a 24ft x 26ft structure (624sqft) where the ordinance allows up to 1500sqft. The request for the rear- and the front-yard setback relief, in tandem, stems from a desire to adhere as best as possible to both while still gaining a garage, as currently a 240sqft shed is the only storage space on the parcel.

**VARIANCE CRITERIA:** To qualify for a variance, it must be demonstrated that the property meets the following 3 requirements: (Case Law applied to variance criteria)

- 1) Unnecessary Hardship
  - ❑ compliance with standards would be unreasonably burdensome (Snyder)
  - ❑ hardship may not be self-created (State ex rel. Markdale Corp. v. Board of Appeals)
  - ❑ circumstances of the applicant, such as a growing family or the need for a larger garage, are not a factor in considering variances (Snyder)
  - ❑ property, as a whole, must be considered, not just a portion (State v. Winnebago County)
  - ❑ economic or financial hardship is not a justification (State v. Winnebago County)
  
- 2) Unique Property Limitations
  - ❑ limitations such as steep slope, wetland, shape or size that are not shared by other properties and prevent compliance with ordinance (State v. Kenosha BOA)
  - ❑ limitations common to a number of properties are not a justification (Arndorfer v. Sauk County BOA)
  - ❑ alternative designs and locations on the property have been investigated (State v. Winnebago County)
  
- 3) No Harm to Public Interest
  - ❑ ordinance purpose and intent, variance may not harm public interest (State v. Winnebago County)
  - ❑ short-term, long-term, and cumulative effects on public interest in neighborhood, community, and even the state (Ziervogel)
  - ❑ only allow minimal relief for use of property, may include conditions (Robert M. Anderson, American Law of Zoning)

**STAFF COMMENTS:**

**1) Unnecessary Hardship**

- ❑ To comply with all setback standards, no new structures are allowed on the parcel. Due to the reduced amount of garage space on this lot, most owners would require additional garage space. The present restriction of 240sqft of garage space could be considered unreasonably burdensome.
- ❑ If there are "reasonable" alternative locations, then the hardship is self-created. However, if there are no other reasonable locations, then the hardship is derived from the uniqueness of the parcel and, therefore, not self-created. In this case, the setbacks indicate a code-compliant location that is already occupied by the dwelling and a remnant area

that is not suitable for a detached garage. This is not a self-created hardship.

- The owner's wish to construct his building as proposed, as he feels any homeowner would request, to have a standard size garage for storage.
- As a whole, the lot is in a position that the 75ft shoreland setback converges with the 67ft highway setback and the 25ft rear-yard setback on the south of the property to prohibit structure placement anywhere other than the aforementioned 174sqft in the center of the lot.
- The owner is not claiming an economic / financial hardship.

## **2) Unique Property Limitations**

- The applicant has identified limiting conditions as proximity to Little Green Lake and proximity to State Road 44. This convergence of multiple setbacks is not shared by properties to the north. The property to the south shares the setback limitations, but as a business, is not looking for storage space. It is staff's opinion this property owner is limited by the setback limits completely, not just in a desired location.
- The neighboring property to the south presents similar characteristics. In this case, the highway setback may be considered unique as the limitation **wholly** prevents a property owner from building a garage on their property.
- The variance application indicates that the property owner has looked at his entire property in his effort to identify other locations to building his garage.

## **3) Harm to Public Interest**

- The purpose and intent of highway setbacks is to keep motorists clear of obstructions / distractions and keep pedestrians and property improvements out of the reach of traffic. Based on the right-of-way width, there are 38 feet between the east lot line of the subject site and the southbound lane of State Road 44. The proposal indicates an additional 29 feet of proposed setback. In total, from edge of pavement, there are 67 feet of distance and several mature trees between the proposed new structure and the closest traffic. It is staff's opinion that the request would not harm the public interest as the proposed structure is substantially setback from the highway and will be mostly shrouded from view.
- The effects of granting a variance of this nature are that similar requests will also be heard by the BOA. No precedent is set and no harm to public interest is observed as long as each future request meets the variance criteria. As mentioned earlier, in addition to right-of-way setbacks and lot line setbacks, this parcel is also subject to shoreland zoning jurisdiction. Of importance on this topic is that even with the proposed new structure, the parcel falls below the standard maximum amount of impervious surfaces for shoreland lots. The site currently has between 11-12% with existing driveway. With the proposed garage, it will be at +/-14%.
- It is staff's opinion that minimal relief should be balanced with protection of the public interest; that is, the variance hypothetically could be granted to provide relief from one setback and not another. However,

this would push the structure closer to the highway, or closer to the west property edge. The proposed location seems to be the only area where two setback areas would cause the least harm to public interest. There is no area on the property where the structure could be placed and not infringe on at least one setback area, if not two or three.

**Variance Conditions:**

1. As-built Certificate of Survey to be provided to the county upon completion of construction showing finished location.
2. Require property owner to revegetate impervious surfaces associated with the lot equal to the square footage of the proposed garage.
3. Conditions are also subject to addition or alteration based on site visit prior to BOA meeting. Possibly other mitigation and reclamation of the other impervious surface areas may be identified at the public hearing by the BOA.

## GREEN LAKE COUNTY VARIANCE APPLICATION

Provide the following information and any other detailed information related to the variance.

Date Received: 9-1-17

Fee Received: \$375.-

John Rozek  
Owner Name

S Amel as owner  
Applicant Name

John Rozek 8/28/17  
Owner Signature Date

[Signature] 8/28/17  
Applicant Signature Date

1150 N Lake Shore Dr, apt 24C  
Mailing Address

\_\_\_\_\_  
Mailing Address

Chicago IL 60611  
City State Zip

\_\_\_\_\_  
City State Zip

630-926-1395  
Home Phone Work/Cell Phone

\_\_\_\_\_  
Home Phone Work/Cell Phone

Site Address N2913 Standard 44 Markleas, ILL 53946  
Tax Parcel ID # 006 - 01272 - 0000

Lot 3 Block \_\_\_\_\_ Section 29, T 15 N, R 13 E  
Subdivision/Plat \_\_\_\_\_  
Lot \_\_\_\_\_ CSM # 574 Town of \_\_\_\_\_

For the Board of Adjustment to grant a variance, the owner/applicant must clearly demonstrate that there is an unnecessary hardship present when strictly applying an ordinance standard; that the hardship is due to unique site limitations; and in granting a variance the public interest is being protected.

The burden of proof rests upon the property owner to show all 3 criteria are being met.  
A variance is not a convenience to the property owner and should not be granted routinely.

1. Explain your proposed plans and how they vary from the required dimensional standards.

I'd like to build a 2 car garage on my property with fairly standard dimensions (24 X 26). The garage will be less square feet than maximum allowed.

2. Explain the hardship proposed by the ordinance:

Based on current setback ordinances, there is very limited buildable area on my property due to the layout of the lot. Please see the yellow area on the "Rozek Aerial" included with the packet. The current setback ordinances effectively prevent me from building a structure on the property. In particular, the highway setback ordinances are the most restrictive and the corresponding rear setback ordinances.

3. Describe unique property feature(s) that create the hardship.

Please see the attached "Rozek Aerial" for diagram of the property and the buildable area outlined in yellow. My property is a corner lot situated on Highway 44. With the current setback ordinances, there is very little buildable area on the property. Within the limited buildable area based on the The current setback ordinances effectively prevent me from building any structure on the property. My property is a waterfront lot and my proposed construction will meet the minimum 75 foot set back feature from the water.

4. Explain why the proposed variance will not harm the public interest:

The garage I'd like to construct is a standard size 2 car garage and will be substantially hidden from the highways due to the trees that are in my yard. Therefore it will not create a distraction to the drivers on the highway. The garage will not infringe on my neighbors nor harm the public interest in terms of the set back from the highway.

5. Explain why the property cannot be utilized without a variance: (USE VARIANCES ONLY)

Per the attached "Rozek Aerial", the total buildable square feet based on the code compliant is approximately 905 square feet, of which approximately 400 square is already occupied by the house on the property.



Green Lake County

1 inch = 40 feet

Geographic Information System (GIS)  
<https://gis.co.green-lake.wi.us/>

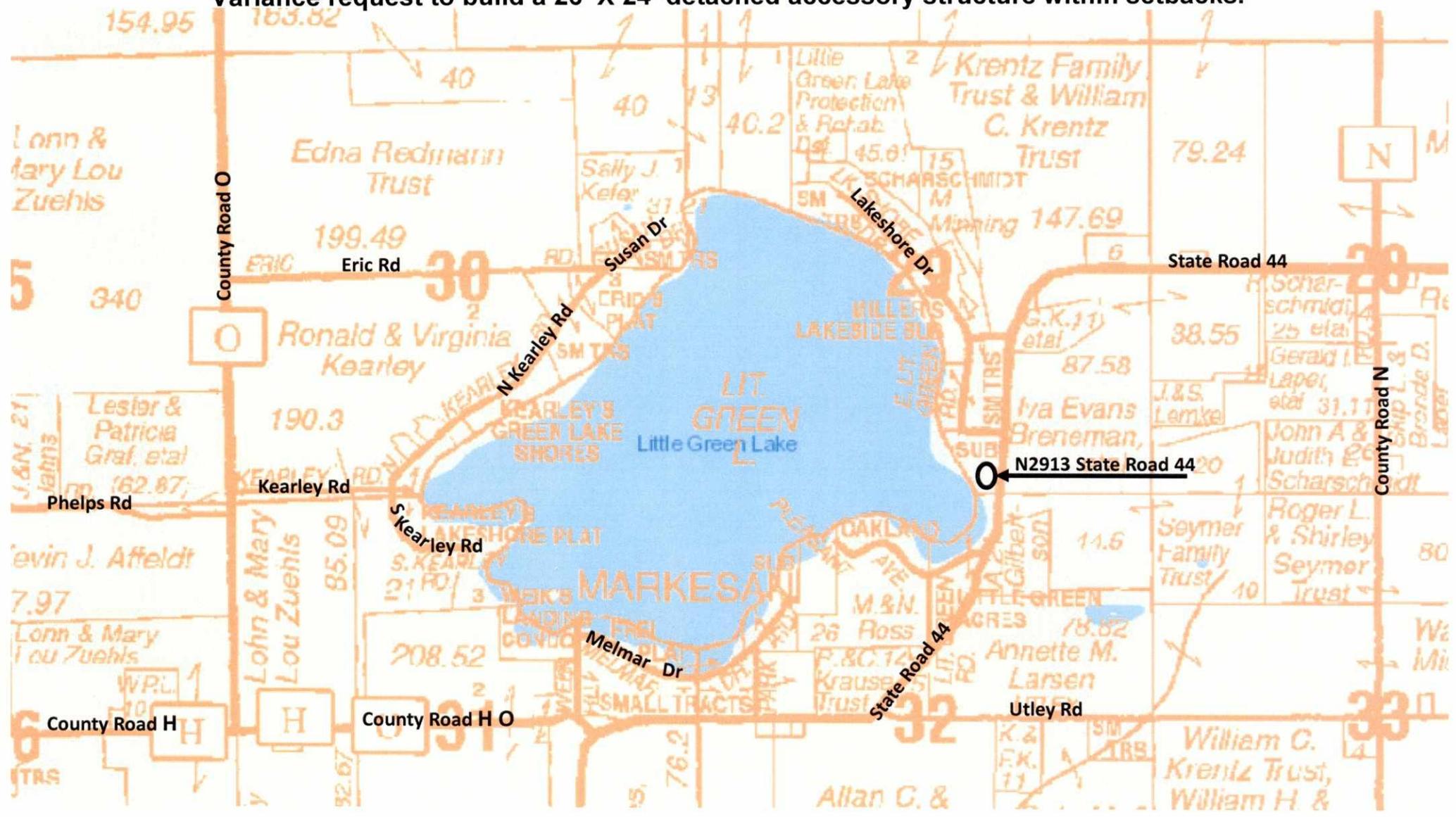
**Rozek Aerial**  
 Green Lake County, WI

Time: 10:33:20 AM  
 Date: 8/16/2017

Note:

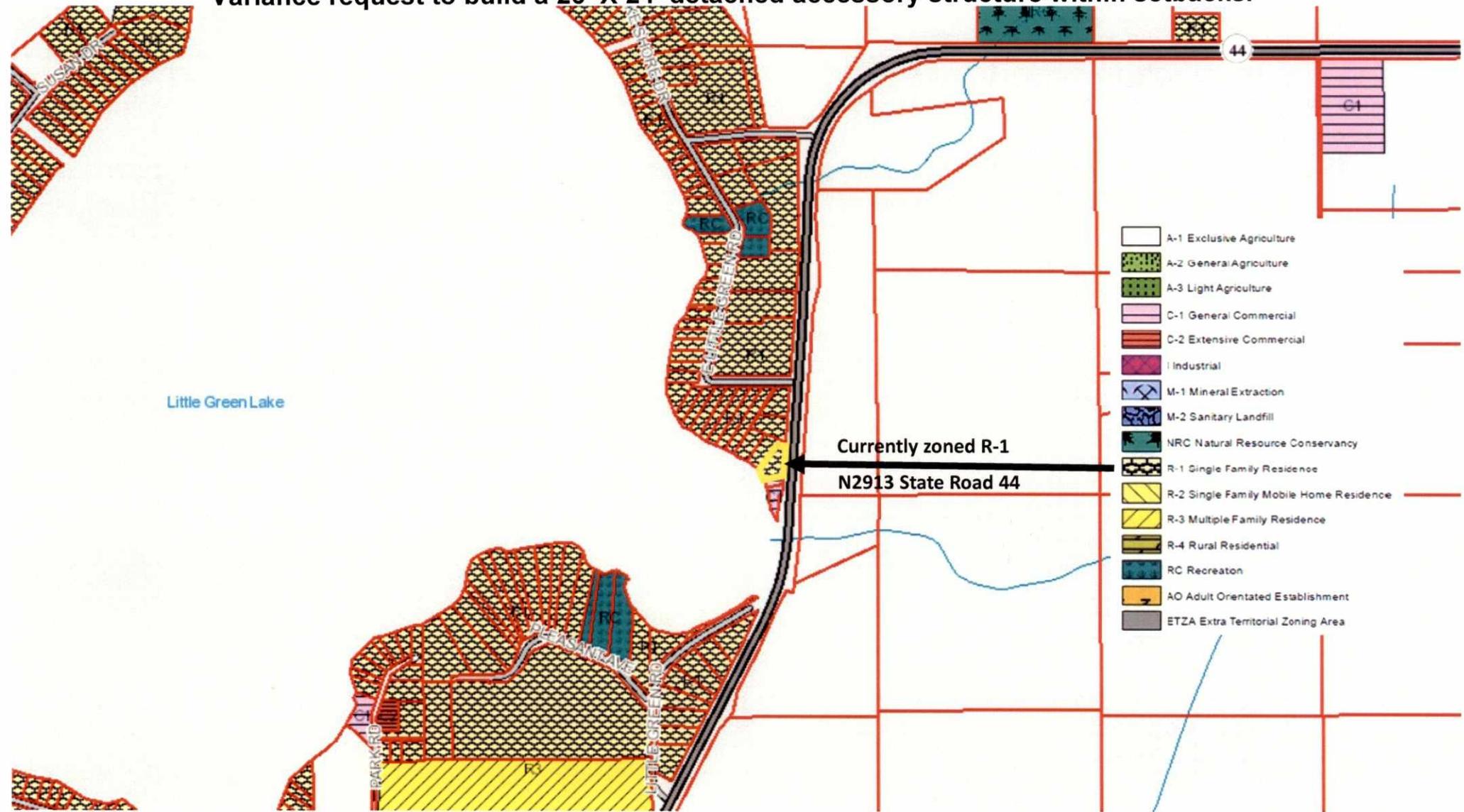


John Rozek – Town of Green Lake  
N2913 State Road 44, Parcel #006-01272-0000, Lot 1 Pleasant Point Plat,  
Part of Government Lot 4, Section 29, T15N, R13E  
Variance request to build a 26' X 24' detached accessory structure within setbacks.



Green Lake County Board of Adjustment Public Hearing 10/20/17

**John Rozek – Town of Green Lake**  
**N2913 State Road 44, Parcel #006-01272-0000, Lot 1 Pleasant Point Plat,**  
**Part of Government Lot 4, Section 29, T15N, R13E**  
**Variance request to build a 26' X 24' detached accessory structure within setbacks.**



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**Green Lake County Board of Adjustment Public Hearing 10/20/17**