

CITY OF ONALASKA MEETING NOTICE

COMMITTEE/BOARD: Board of Zoning Appeals
DATE OF MEETING: August 18, 2016 (Thursday)
PLACE OF MEETING: City Hall – 415 Main Street (Common Council Chambers)
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.** Request for variance filed by Benjamin Thorud, on behalf of CT Real Estate LLC, 803 Deerwood Street, Holmen, WI 54636, for the purpose of converting existing commercial space into four (4) efficiency apartments, for a waiver from the requirement 45% green space standard required for buildings with eight (8) units, and a waiver to allow a non-conforming structure/use to increase its non-conformity by not providing the required green space and not coming into conformance with the Unified Development Ordinance for the property located at 544 2nd Avenue North, Onalaska, WI 54650 (Parcel #18-668-0).
5. 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
Ald. Jim Binash
Ald. Jim Olson
** Ald. Jim Bialecki
* Ald. Bob Muth - Chair
***Ald. Harvey Bertrand
Ald. Barry Blomquist
City Attorney Dept Heads
La Crosse Tribune
Onalaska Holmen Courier Life
WKTY WLXR WLAX
WKBT WXOW
*Committee Members ** Alternate ***2nd Alternate

*Craig Breitsprecher
*Brent Larson
*Robert Wehrenberg
*Kristen Odegaard
Benjamin Thorud
Onalaska Public Library Omni Center

Date Notices Mailed: 8-11-16
Date Notices Posted: 8-11-16

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 – August 18, 2016

Agenda Item:

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Applicant/Property Owner: Benjamin Thorud, on behalf of CT Real Estate LLC
Site Address: 544 2nd Avenue North, Onalaska, WI 54650
Parcel No: 18-668-0
Zoning District: Community Business (B-2)
Adjacent Land Uses: Single Family and/or Duplex Residential
Requested Action: Request for two variances to convert existing commercial space into four (4) efficiency apartments and for a waiver from the required 45% green space standard required for buildings with eight (8) units.

The property in question has three levels: the 3rd level contains four (4) efficiency apartments, while the 2nd and 1st/lower level are for commercial use. Existing residences are outright permitted in the B-2 District, provided the standards for R-4 (Multi-Family) are met on site. Multi-family structures with four (4) units are required to provide 35% green space for use by residents to recreate on site. The applicant is requesting to add four (4) additional efficiency apartments on the 2nd level, replacing the commercial use, which would require a total of 45% green space and is requesting to waive the additional green space requirement of 10%.

Public Hearing Notice:

A Public Hearing notice for the requested variances were posted on July 29, 2016 at least seven days prior to the scheduled Public Hearing, and written notification was given to all neighboring parcels within two hundred (200) feet of said parcel.

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

Sec. 13-2-12 (a) (37), Code of Ordinances, City of Onalaska, Wisconsin states “Existing residences shall comply with all the provisions of the R-4 Residential District.
[45% Green Space required for 8-units.]

Sec. 13-2-12 (a), Code of Ordinances, City of Onalaska, Wisconsin lists permitted uses in the B-2 District.
[Allowing additional residential units is not a permitted use.]

Consistency with the Comprehensive Plan:

The Comprehensive Plan’s Future Land Use Plan identifies this parcel as *Downtown Mixed Use District*. The intent of this future land use district is to have pedestrian-focused development with a mix use of uses, including residential, personal services, commercial, institutional and civic uses. Multiple-story, mixed use buildings that include high quality architecture, signage, lighting and streetscape amenities... are strongly encouraged.

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

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- 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.*

Variance Request #1 [45% Green Space required for 8-units.]: No – criteria has not been met.

As stated previously, 35.6% of the existing site is green space. The Unified Development Ordinance requires a minimum of 45% green space to serve eight (8) multi-family units, which totals 6,861 square feet. This standard requires an additional 1,428 square feet of green space to conform with City Ordinances. According to the applicant, the only way to provide the additional required green space is to remove a portion of the existing parking lot. The parking lot currently has twenty-four (24) spaces jointly serving both tenants and commercial businesses. The green space requirement would likely cause a reduction in 8 parking stalls overall, bringing the total to 16 parking spaces.

Below is a list of reasons as provided by the applicant for not providing 45% green space for building residents (additional 10%):

1. Refuse/recycling containers would need to be relocated in providing the green space, which would occupy a smaller space and become more visible. Currently, this area is shielded in the rear of the building.
2. Snowplowing and removal would become more an issue for tenants in a smaller lot as there would be not as much room for removal activities, likely the stalls would be filled by tenants.
3. The efficiency apartments are 350 square foot and the applicant has a policy not to rent to individuals who would occupy the space with more than one person.
4. The applicant does not see more than 8 people as tenants of the multi-family units, which “would be less than the average 4 unit apartment building with 1 and 2-bedroom units. With this logic and making the assumption that green space requirements are assuming multiple people live in a unit, we essentially will have the same occupancy number as a 4-unit building with a 35% green space requirement”.

The green space requirement is based on the number of units in a building, not the number of occupants and has been enforced for all new multi-family buildings. City staff are unaware of a similar mixed-use situation where a developer has wanted to increase the number of dwelling units in a building and not provide the required green space. Other than the reduction in parking spaces, staff are unaware of other physiographical hardships.

Variance Request #2 [Allowing additional residential units is not a permitted use.]: No – criteria has not been met.

The Unified Development Code does not allow properties in a B-2 District to add residential units to a development. The property owner has found that a mix of uses works well at this site and proposes to convert 1,500 square feet of commercial space to residential units as it would be the

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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highest and best use of the property. There is not a physiographical hardship associated with allowing additional residential units.

- 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.*

Variance Request #1 [45% Green Space required for 8-units.]: No – criteria has not been met.

To the best of staff knowledge, there has not been another redevelopment project where a property owner proposed to convert commercial space into multi-family apartments. Staff has found a variety of other mixed-use properties (commercial/residential) in the near vicinity of the property in question that have little or no green space on-site. These properties are considered non-conforming structures as they do not meet the minimum green space requirements and would be required to provide minimum green space allotments on-site if they were to add residential units.

Variance Request #2 [Allowing additional residential units is not a permitted use.]: No – criteria has not been met.

The property in question is an existing mixed-use development and the Unified Development Code currently does not allow for an increase in residential units – only commercial space. An existing mixed-use development in a commercial district could convert residential units into commercial space as an outright permitted action – no zoning permits would be required. However, the inverse is not allowed. This in turn causes issues for redevelopment potential on-site and for the property owner to fully utilize the site. This scenario applies to any existing “mixed-use” development in the City and is not unique to the property.

- 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 for Variance Request #1 & #2. According to the applicant, the existing commercial space has been available for rent and has remained vacant. Prospective tenants have noted the current construction on State Road 35 as a deterrent to renting. In the letter from the applicant, they have noted the number of improvements made to the property in the last year and intend to continue to improve the property and the property owner has determined that the site may be better suited for additional residential dwelling units. The only way to provide the additional green space would be to reduce parking space, which would according to the property owner would not be desirable for the tenants or the businesses on site.

- IV) *The granting of the variances 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 met for Variance Request #1 & #2. The property currently has 35% percent green space on-site and within less than a ¼ mile is Community Park. The request to allow four (4) efficiency apartments is an extension of the current use of the building and would not require any exterior changes to the property. The conversion of commercial to residential may modify existing traffic patterns in the neighborhood, which could be more conducive to the residential surroundings. Staff believe that the requested variances will not be detrimental to adjacent properties or the public welfare due to the noted reasons.

However, as a public hearing will be held, testimony from the public should be listened to and considered before deciding on the requested variance.

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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 met for Variance Request #1 & #2. 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 denial of the two proposed variances as staff believes that all five (5) criteria have not been met for each request.

Staff would recommend the following Conditions of Approval if Board of Zoning Appeals should approve the variance:

- 1) Property owner to obtain a Building Permit 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, Wisconsin

Planning/ Zoning
Department



Map Designer: Katie Aspenson, AICP

Date: 7/18/2016



1,649.74 SF

1,189.24 SF

861.53 SF

**Total Site: .35 Acres
(15,246 SF)**

Dumpster

Parcel Lines

1 inch = 21 feet

This map is to be used for reference purposes only. Every effort has been made to make this map as accurate as possible.



CITY OF ONALASKA

415 MAIN STREET
ONALASKA, WISCONSIN 54650-2933

PLANNING / ZONING DEPARTMENT

Request for Variance

Board of Zoning Appeals, City of Onalaska, WI

Application Fee: \$300.00

Date 7/19/16

I (we), CT Real Estate LLC, 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:

45% green space be required for R-4 (Medium Density)

For the purpose of: allowing 30-35% green space rather than due to existing
seal property/building and driveway parking (25 plus street)

DESCRIPTION OF PROPERTY:

Tax Parcel # _____ Street Address 544 2nd Ave North

- PLEASE ATTACH:
- Application Fee of \$100.00
 - 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>Benjamin Throckmorton</u>	Phone Number <u>608 863 0888</u>	Address <u>203 Deerwood St</u>
Signature <i>[Signature]</i>		City, State, Zip <u>Onalaska WI 54636</u>
Name of Owner (printed) <u>Tom Weber</u>	Phone Number <u>608 294-4840</u>	Address <u>W 5864 State St 33</u>
Signature <i>[Signature]</i>		City, State, Zip <u>Onalaska WI 54601</u>

Contact Person if other than Owner

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

For Office Use: Enclosures: <input type="checkbox"/> \$300 Filing Fee <input type="checkbox"/> Response to S Criteria <input type="checkbox"/> Plot/Site Plans/Site Photographs	Date Complete Application Received: _____	Initials: _____
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Aspenson, Katie

From: Thorud, Ben <BThorud@Ashleyfurniture.com>
Sent: Wednesday, July 20, 2016 3:53 PM
To: Aspenson, Katie
Subject: 544 2nd Ave N
Attachments: 544 2nd Ave N.PDF; IMG_0335.jpg

Katie, thanks for the time this week. Please find attached the necessary paperwork and accompanying information since it would not fit on the lines provided. Thanks

To: Board of Zoning Appeals

Fr: Ben Thorud(CT Real Estate)

Date: 7/20/2016

Re: 544 2nd Ave North, zoning variance

CT Real Estate purchased the said property around April 2015, as an investment of course, with the intent to upgrade and beautify the property . Since taking ownership we have

- a. Painted portion of the exterior on the east side of the property
- b. New hot water heaters for upper and lower tenants
- c. Built new fence around electrical outlets that were an eye soar
- d. Repaved the entire parking lot that was old and worn
- e. Remodeled the downstairs to include more energy efficient door/windows, upgraded electrical systems that were mis wired, added new carpet/paint, etc
- f. Rebarbed entire landscaping
- g. Added flowers and plants to both the south side of property and the east side adjoining the alley(not included in green space calculations
- h. In process of upgrading and adding green space to the east side
- i. New pylon signage installed to replace old worn signage
- j. In process of seeking bids to replace retaining wall around signage

The property currently resides in a neighborhood with single and multi-family housing in the surrounding blocks and consists today of 4 efficiency apartments(top floor) taking up 1500 sq feet approximately, a 1500 sq foot commercial space(ground level) and a 1500 sq foot commercial lower level with three message therapists currently as tenants.

The property is also the last property on the east side of HWY 53, while heading north, before the major construction begins/ first property on the east side of HWY, while heading south, when the major construction begins. Because of the construction we have had many prospective tenants tell us they wouldn't be interested in occupying the commercial space because there business is no longer as visible due to drivers having to now focus on the construction and in the future focus on the change from one lane to two/two lanes to one. As a safe driver, I tend to agree with all of the prospects that have decided not to lease from us do to the construction and new traffic flows in future.

Having said this, we still believe the building is in a great Onalaska location due to the lake visibility and wish to continue reinvesting in the property. What we are seeking to do is convert the 1500 sq feet ground level space to mirror the 1500 sq feet upper level space by converting to 4 efficiency apartments. We understand that in doing this, we would need to move from the 30% green space we currently have to 45% green space

, which means adding approximately 2400 additional sq footage of green space. Our issue becomes that in adding an additional 2400 sq foot of green space, we would lose over half the parking space we currently have (would go from 24- less than 10) and if we lose over half the parking space we have, we then would no longer be in compliance with the parking requirements.

Converting this space will not generate much, if any ,additional monthly revenue for CT Real Estate In fact , with the cost to convert it will take us years to recoup the cost,

Our belief is that maintaining 30% green space instead of 45% green space is better for the tenants and surrounding houses than losing over half the current parking and becoming non-compliant with the parking regulations for the following reasons:

1. Part of the parking lot today(back part and out of site) contains a waste management container and recyclable bins...which would have to be relocated and occupy a portion of a new smaller space if required and become more visible
2. Snow plowing and removal would become more of an issue for tenants in a smaller lot as there would not be as much room for us to remove snow as they may occupy 100% of the spots in a smaller lot.
3. Our belief is that 350 sq feet is not enough room for more than one person, and therefore we have a policy not to rent to anyone who will occupy the space with more than one person.
4. If we are allowed to move forward we do not see more than 8 total people as tenants in the efficiencies, which would be less than the average 4 unit apartment building with 1 and 2 bedroom units have. With this logic in mind and making the assumption the green space requirements are assuming multiple people live in a unit, we essentially will have the same occupancy number as a 4 unit building/35% green space requirement.
5. Today we are approximately at 30% green space, which does not include a row of plantings along the south fence or a row of flowers/plantings along the entire length of the east side of the parking lot....which would get us closer, if not to 35%.

Thank you for the consideration and I look forward to discussing with you in the near future.

Sincerely,

Ben

**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:

**THURSDAY, AUGUST 18, 2016
Approx. 6:30 PM (or immediately after public input)**

in Onalaska City Hall, 415 Main Street, Onalaska, WI 54650, at which time they shall consider a variance application filed by Benjamin Thorud, on behalf of CT Real Estate LLC, 803 Deerwood Street, Holmen, WI 54636, who is requesting to appear before the Board of Zoning Appeals for the purposes of converting existing commercial space into four (4) efficiency apartments, for a waiver from the required 45% green space standard required for buildings with eight (8) units, and a waiver to allow a non-conforming structure/use to increase its non-conformity by not providing the required green space and not coming into conformance with the Unified Development Ordinance for the property located at 544 2nd Avenue North, Onalaska, WI 54650.

Property is more particularly described as:

Computer Number: 18-668-0

Section 5, Township 16, Range 7,

JOHNSON ADDITION – ONALASKA LOT 4 & N 58FT LOT 3

BLOCK 2 EX PRT FOR RD

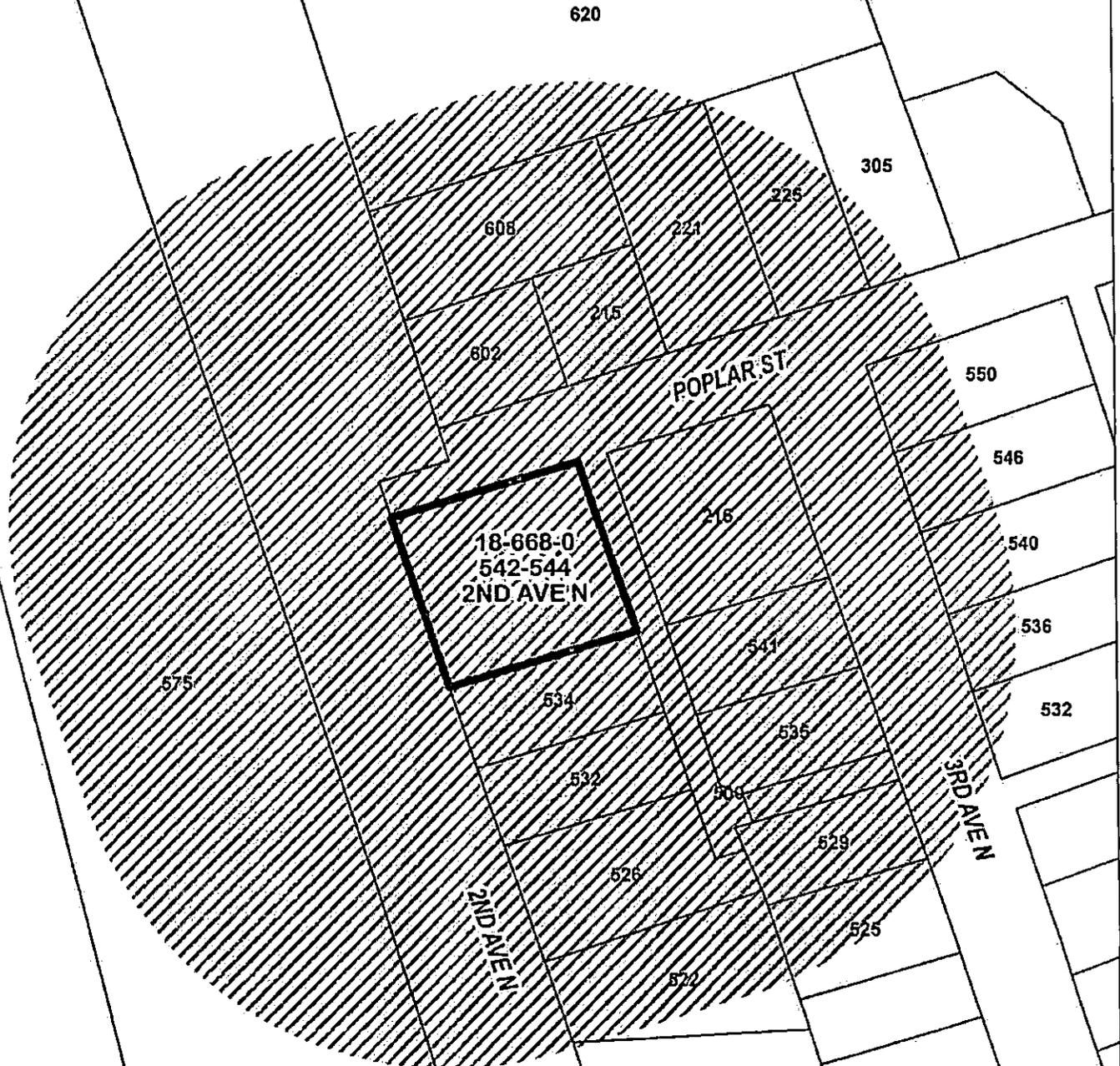
YOU ARE FURTHER NOTIFIED that the Board of Zoning Appeals will hear all persons interested, their agent or attorney, concerning this matter.

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 29th day of July, 2016.

Cari Burmaster
City Clerk

PROPERTIES WITHIN 250' OF PARCEL: 18-668-0



1 in = 100 ft

GIS Dept
Map Designer: Joe Barstow
Date: 07/20/2016

This map is to be used for reference purposes only. Every effort has been made to make this map as accurate as possible.

City of Onalaska Variance Meeting

August 18 2016

Re: Variance for 544 2nd Ave North

Summary:

-Currently the property is conforming and has 35.6% green space.

-Current building is one level of multi-family(4 efficiencies) and two levels, 1500 sq feet each, of commercial.

-Request is to approve two variance to allow the ground level commercial space to be converted to mirror the top floor multi unit space.

Variance 1: 45% green space to serve 8 units(we currently have 35.6%)

Variance 2: Allowing additional residential units

While we understand that we do not meet all of the current defined criteria to grant a variance outright, the following are eight valid and logical reasons we believe a variance should however be granted:

1. The building is consistent with the Comprehensive Plans Future Land Use Plan, in which multi-story, mixed use buildings are strongly encouraged. If it is likely to be allowed in 90 days, then granting an approval now would not set a precedence or undermine the intent of the code
2. There are currently several other mixed use properties in close proximity that do meet the requirements, and therefore this property would not stand out or be the only non-conforming mixed use property in the close area
3. Adding the additional 1428 sq feet of green space would require us to remove over 33% of the parking lot, and would not add any value to the tenants as they would have to cross a parking lot and it would be adjoining an alley that is not fenced off. **(see photo attached)**
4. If we added the 1428 sq feet of green space, the only option would be to remove parking spaces, and doing so would then cause us to be non-conforming to the parking requirements

5. There is ample green space today if tenants choose to use, and if a tenant(s) would like more, there is a large beautiful Community Park within a quarter of a mile.
6. Safety: Removing 1/3 of the parking will cause snow removal process to become challenging in tight spaces, including potentially not being able to remove all snow if full of vehicles.
7. The current code allows for residential units to be redeveloped into commercial units without variances, however not commercial to multi-family. For this particular building, the code does not have good logic as the building is in a residential neighborhood and the traffic from a 1500 sq foot commercial tenant is far greater than that of a 4 efficiency apartments, making this redevelopment project more conducive to the surroundings.