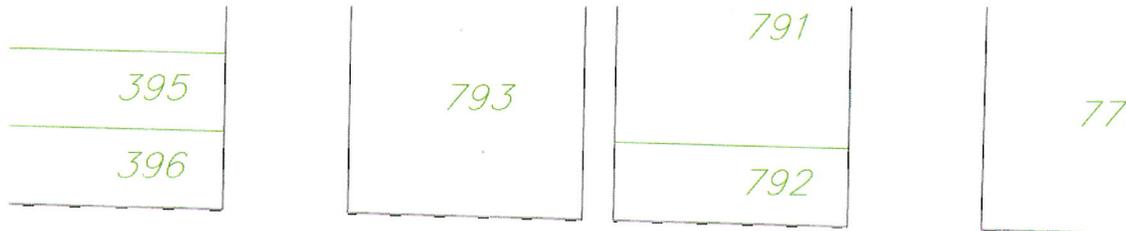


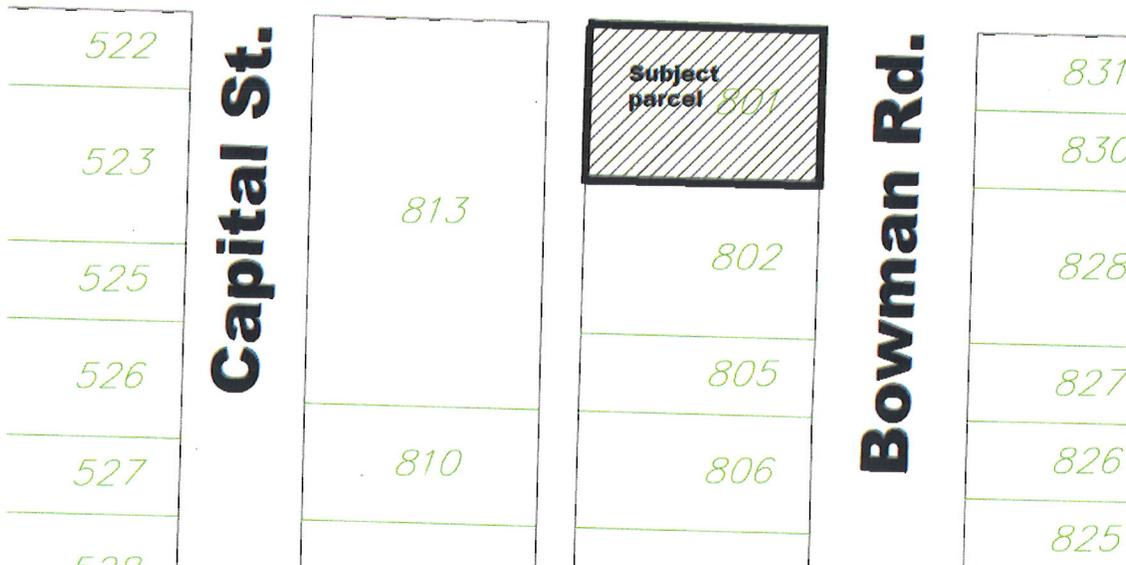
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City of Wisconsin Dells Board of Appeals will hold a Public Hearing on **Wednesday, July 29, 2015 at 5:00 PM** in the Council Chambers of the Municipal Building at 300 La Crosse Street, Wisconsin Dells, Wisconsin 53965, to consider the following:

Variance Application, per Municipal Code sec. 19.491, requested by Don Gavinski for a 1640 square foot Dimensional Variance from City Ordinance Chapter 19, Municipal Zoning Code, Article 5, Division 4, LOT AREA AND DIMENSIONAL STANDARDS, Exhibit 5-4. The applicant owns City tax parcel 801, located at 1027 & 1029 Bowman Rd, which is in the R-3 Residential-Mixed Use Zoning District. The Zoning Code requires a minimum lot size of 9200 square feet for a two-family residence in this zoning district. There are currently two (2) buildings on the applicants parcel; One (1) residence, single family, and one (1) Residence, two-family. The applicant would like to split his parcel, so that each building would be on its own new parcel. Each of the new parcels would have an area of 7560 square feet; **therefore the applicant must obtain a 1640 square foot Dimensional Variance from the 9200 square foot minimum requirement for the Residence, two-family parcel.** Copies of the application are available for review at the City of Wis. Dells Public Works office in the Municipal Building at 300 La Crosse Street.



Illinois Ave.



All interested persons will be given an opportunity to be heard at the Public Hearing. With reasonable notice the City will provide appropriate auxiliary aids and services when necessary to afford individuals with disabilities an equal opportunity to participate in the Public Hearing.

Dated this 10th day of July 2015
Ben Borchert
Chair-Board of Appeals
City of Wisconsin Dells

Publication Dates:
July 22, 2015

Variance of 1640 sq. from 9200 req.

VARIANCE APPLICATION
Wisconsin Dells, Wisconsin
Version: May 21, 2007

General instructions. Complete this application as it applies to your project and submit one copy to the zoning administrator along with the required application fee. Before you formally submit your application and fee, you may submit one copy to the zoning administrator who will ensure it is complete. If you have any questions, don't hesitate to contact the zoning administrator at 608-253-2542. You may obtain a digital copy of this form from the zoning administrator.

- Office Use Only -

Application fee	\$525.00
Receipt number	51546
Application number	1-2015

1. Applicant information

Applicant name Don Gavinski
Street address 1313 N. Franklin Pl #802
City Milwaukee
State and zip code WI 53202
Daytime telephone number (414) 232-4944
Fax number, if any _____
E-mail, if any djgavinski@gmail.com

2. Subject property information

Street address	<u>1027 & 1029 Bowman Road</u>	
Parcel number	<u>801</u>	Note: the parcel number can be found on the tax bill for the property or may be obtained from the City.
Current zoning classification(s)	<u>R-3</u>	
Describe the current use	<u>single family house and rental duplex.</u>	

3. Provide the section number of the Municipal Code from which a variance is being sought along with the standard. Finally, describe the variance being requested.

Minimum lot area for R-3 zoning
Exhibit 5-4 page 70
The variance would allow the creation of 2 parcels for two existing buildings. The parcel containing the duplex is 7560 square feet while zoning requires 9200 square feet.

4. Review criteria. In making its decision, the Board of Appeals needs to consider various factors as listed below. Provide a response to each. (See Section 19.492 of the Municipal Code.)

For Dimensional Variances:

a. Whether the variance would be contrary to the public interest
Granting a variance would not change existing use, only it would allow each structure to be on it's own parcel.

b. Whether a literal enforcement would result in an unnecessary hardship, owing to conditions unique to the property
The existing parcel is not large enough to meet minimum parcel area for zoning R-3 for two parcels. No additional land is available.

c. Whether the spirit of the zoning code would be observed and substantial justice done if a variance is granted

VARIANCE APPLICATION
Wisconsin Dells, Wisconsin
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Granting a variance would meet the spirit of the zoning code because it would accept existing structures that had been granted past building permits.

For Use Variances:

- a. Whether the variance would be contrary to the public interest

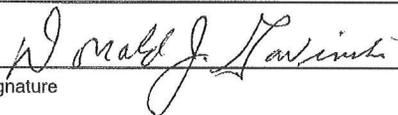
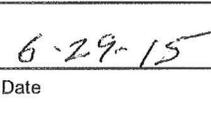
- b. Whether a literal enforcement would not allow the property to be used for a reasonable use given its size, configuration, and other property characteristics

- c. Whether the spirit of this code would be observed and substantial justice done if a variance is granted

5. **Project map.** Attach a scaled map showing the information as listed at the end of this application. Use one of the following page sizes as appropriate: 8½" x 11", 11" x 17", or 24" x 36".

6. Applicant certification

◆ I certify that the application is true as of the date it was submitted to the City for review.

	
Applicant Signature	Date

Governing Regulations	The procedures and standards governing this application process are found in Chapter 19, Article 4, Division 12, of the City's Municipal Code.
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The City of Wis. Dells has received a Variance application from Don Gavinski for a Dimensional Variance of 1,640 sq ft., from the 9200 sq ft the minimum lot-size required for a Residence two-family per City Ordinance Chapter 19-Zoning Code, Article 5-Land Use, Division 4-Lot Area and Dimensional Standards, Exhibit 5.4-Development standards for residential zoning districts.

Mr. Gavinski owns Columbia County, City of Wisconsin Dells tax 291-801, which contains two (2) structures; one is a two-family duplex at 1027 & 1029 Bowman and the other is a single family home at 722 Illinois. Mr. Gavinski would like to split parcel 291-801 between the two structures, so that each structure sits on its own individual tax parcel.

Mr. Gavinski had his surveyor provide a sketch of the propose land split, and it appears to affect four (4) Lot Area and Dimensional Standards:

722 Illinois

Standard	Minimum	Proposed
Side yard, single family	10 ft total both sides, minimum 4 ft	18 feet
Minimum Street Frontage	40 feet	75 feet
Minimum lot width at front yard setback	65 feet	75 feet
Minimum lot size, single family	7200 sq feet	7560 sq feet

1027 & 1029 Bowman

Standard	Minimum	Proposed
Side yard, two family	6 feet	15 feet
Minimum Street Frontage	40 feet	75 feet
Minimum lot width at front yard setback	65 feet	75 feet
Minimum lot size, two family	9200 sq feet	7560 sq feet

The proposed land split would create a two-family residential lot that varies from the current minimum requirement by 1,640 sq feet. The duplex existed on the lot first, and Mr. Gavinski was issued a permit to build the single family residence in 2001. It is noted that Mr. Gavinski owns two (2) lots from the original Kilbourn City Plat. It was after the original Kilbourn City plat created the majority of the city lots downtown that the new minimum lot size requirements were enacted. Many of the original lots do not comply with the current requirements, although the primary non-conformity is the current minimum lot width of 65 feet, as most of the original lots were 50 feet wide. Partly to address this, an exception was added to the current zoning code, that allows a non-conformity to exist if it is in the form of an existing original Kilbourn City lot, and it conforms to the standards of the surrounding lots (i.e. the surrounding lots are also original Kilbourn city lots). Mr. Gavinski does not qualify for this exception because the original Kilbourn City lots run east-west, and the original duplex built on the two (2) lots ran north south. The proposed change in orientation of the original Kilbourn City lots actually makes the lots conform to the existing code, for single family dwellings. However, as the original building was a two-family duplex, the minimum lot size requirement is slightly larger and the proposed split would place the duplex on a lot that is 1,640 sq feet smaller than the current minimum lot size standard for a duplex.

Per the City of Wis. Dells Zoning Code Section 19.492, the Board of Appeals shall consider the following in making a decision on a Use Variance such as this:

- (a) whether the variance would be contrary to the public interest.
- (b) whether a literal enforcement would not allow the property to be used for a reasonable use given its size, configuration, and other property characteristics.

It does not appear that this request would be contrary the public interest, as the structures and uses already exist. This request would only allow two different owners of the individual structures.

A literal enforcement of the existing zoning standards would eliminate the applicant’s ability to sell one of the structures and keep the other.

Chris Tollaksen
 City of Wis. Dells

Chapter 19 – Wisconsin Dells Zoning Code

Exhibit 5-4. Development standards for residential zoning districts

Standard	R-1	R-2	R-3	R-5	R-9
Minimum lot size	10,000 sq. ft. for a single family; 11,000 sq. ft. for a second dwelling unit	8,200 sq. ft. for a single family; 9,200 sq. ft. for a second dwelling unit	7,200 sq. ft. for a single-family, plus 2,000 sq. ft. for a second dwelling unit, plus 1,500 sq. ft. for a third unit, plus 1,500 sq. ft. for a fourth unit, plus 1,000 sq. ft. for each additional unit in excess of the fourth unit	10,700 sq. ft. for a three unit building, plus 1,500 sq. ft. for a fourth unit, plus 1,000 sq. ft. for each additional unit in excess of the fourth unit	See sec. 19.700
Minimum lot width at front yard setback	85 feet; 100 feet on a corner lot	85 feet; 100 feet on a corner lot	65 feet	65 feet	65 feet
Minimum street frontage	40 feet	40 feet	40 feet	40 feet	40 feet
Maximum building height					
Principal building	35 feet	35 feet	Residential 6 units or less, 35 feet; residential 7 units or more 45 feet (1)	45 feet (1)	16 feet
Detached garage-nonresidential	n/a	n/a	n/a	n/a	n/a
Other accessory buildings, including garage residential	15 feet				
Minimum setback for principal building					
Front yard	25 feet (2)	25 feet (2)	20 feet (2)	20 feet (2)	See sec. 19.700
Side yard, single family	10 feet on each side (3)	10 feet total of both sides but not less than 4 feet on any one side (4)	10 feet total of both sides but not less than 4 feet on any one side (4)	n/a	See sec. 19.700
Side yard, two-family	6 feet (3)	6 feet (4)	6 feet (4)	n/a	n/a
Side yard, multi-family	n/a	n/a	10 feet on each side (4)(5)	10 feet on each side (4)(5)	n/a
Side yard, townhouse	n/a	n/a	10 feet on each side of the building. Zero lot line between inner dwelling units (4)(5)	10 feet on each side of the building. Zero lot line between inner dwelling units (4)(5)	
Rear yard	10 feet	10 feet	10 feet	10 feet	See sec. 19.700
Minimum setback for accessory building					
Side yard	2 feet	2 feet	2 feet	2 feet	See sec. 19.700
Rear yard	2 feet; 5 feet if a detached garage accesses an alley	2 feet; 5 feet if a detached garage accesses an alley	2 feet; 5 feet if a detached garage accesses an alley	10 feet; 5 feet if a detached garage accesses an alley	See sec. 19.700
Minimum setback for motor vehicle use area					
Side yard	5 feet	5 feet	5 feet	5 feet	5 feet
Rear yard	5 feet	5 feet	5 feet	5 feet	5 feet
Maximum lot area for accessory buildings in rear yard. Measured from rear lot line to back of building per sec.19.110.	30 percent	30 percent	30 percent	30 percent	n/a

Notes:

- Buildings in excess of the stated height are considered a conditional use provided an adequate sprinkler system is installed consistent with the State Building Code.
- Where lots comprising 40 percent or more of the frontage on one side of the block are developed with buildings having an average front yard depth with a variation of not more than 6 feet from the average, no building hereafter erected or structurally altered shall project beyond the average front yard line so established, provided further that this regulation shall not be so interpreted as to require a front yard depth of more than 40 feet. No front yard depth need exceed the greater provided for the two adjoining buildings, one on either side thereof, if such two adjoining buildings are less than 8 feet apart.
- For any building exceeding 35 feet or 2½ stories in height each such side yard shall be increased in width by one foot for each foot of additional height above 35 feet, or by 4 feet for each additional half story above 2½ stories, whichever is the greater amount, and provided further that for any building exceeding 60 feet in length from front to rear, each side yard shall be not less than 14 feet in width.
- For any building exceeding 35 feet or 2½ stories in height each such side yard shall be increased in width by one foot for each foot of additional height above 35 feet, or by 2.5 feet for each additional half story above 2½ stories in the case of a single-family dwelling, or by 3 feet for each additional half story above 2½ stories in the case of two-family dwelling, whichever is the greater amount, and provided further that for any building exceeding 100 feet

**Article 7
NONCONFORMITIES**

Sections:

19.1200	Legislative findings	19.1204	Special provisions for a nonconforming use with respect to wellhead protection overlay district
19.1201	Nonconforming lot		
19.1202	Nonconforming use		
19.1203	Special provisions for a nonconforming outdoor furnace	19.1205	Nonconforming structure

19.1200 Legislative findings

The common council makes the following findings:

- (a) Within the districts established by this code, or within districts established or changed by future amendment, there may existing lots, uses, and structures that were lawful before the adoption of this code, or amendment, but that are nonconforming under the provisions of this code or amendment.
- (b) It is reasonable to generally allow, but not encourage, nonconformities to continue until such time as they are removed or discontinued.
- (c) Nonconformities that are removed, discontinued, changed, extended, or enlarged shall be made to conform with the regulations that apply to all other parcels of land within the district.
- (d) It is reasonable to allow a nonconforming use to resume in certain circumstances if the structure in which it takes place is only partially damaged or destroyed.

19.1201 Nonconforming lot

- (1) **Occupied nonconforming lot not contiguous to vacant lot in same ownership.** If an occupied nonconforming lot of record is not contiguous to a vacant lot in the same ownership or if an occupied nonconforming lot is contiguous to another occupied lot in the same ownership, then the lot may be transferred and used for any use permitted in the district, provided the lot can comply with all other applicable regulations.
- (2) **Vacant nonconforming lot not contiguous to other lot in same ownership.** If a vacant nonconforming lot of record is not contiguous to another lot (vacant or occupied) in the same ownership, then the lot may be transferred and used for any use permitted in the district, provided the lot can comply with all other applicable regulations.
- (3) **Vacant nonconforming lot contiguous to other lot in same ownership.** If a vacant nonconforming lot of record is contiguous to another lot (vacant or occupied) in the same ownership, then the lots shall be aggregated to comply with the dimensional standards to the greatest extent possible.
- (4) **Exception:** If a vacant nonconforming lot of record is contiguous of another lot in the same ownership and the lot conforms to the standards of surrounding lots, i.e. the lots were platted as a development of lots that met the standards of the time of their creation, then the lot may be transferred and used for any use permitted in the district, provided the lot can comply with all other applicable regulations.

19.1202 Nonconforming use

- (1) **Generally.** A nonconforming use of land or a nonconforming use of a structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (a) **Change in extent.** A nonconforming use shall not be enlarged, increased, or expanded and shall not occupy a greater area than what existed at the effective date of this code or any amendment thereto that creates said nonconforming use.
 - (b) **Change of location.** A nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied at the effective date of this code or any amendment thereto which creates said nonconforming use.
 - (c) **Change in use.** A nonconforming use may be changed to a different nonconforming use consistent with article 4.
 - (d) **Cessation of use.** If a nonconforming use ceases for any reason, whether intentional or otherwise, for more than 12 months, any subsequent use of such land or structure shall conform to this code, except as provided for in this section.
 - (e) **Discontinuance due to damage.** If the structure housing a nonconforming use is damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, the nonconforming use may resume, subject to the following conditions:



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V2-47

PLOT
OF
KILBOURN CITY.

Recorded
Book 16 p 689

RECORDED 1856

