



CITY OF NEW RICHMOND  
THE CITY BEAUTIFUL

156 East First Street  
New Richmond, Wisconsin 54017  
ph 715.246.4268 fx 715.246.7129  
[www.newrichmondwi.gov](http://www.newrichmondwi.gov)

July 27, 2015

**TO ALL MEMBERS OF THE BOARD OF APPEALS**

**Glenn Highum**                      **Bob Pierson**  
**Mike Kastens**                    **Sarah Mellerud**  
**Bernard Peterson**

This is to notify you that there will be a meeting of the Board of Appeals of the Building and Zoning Codes of the City of New Richmond Tuesday, August 11, 2015 at 4:00 p.m. in the Civic Center, 156 East First Street.

*BOARD MEMBERS ONLY: Please notify me, as soon as possible, if you are unable to attend, so I can arrange for an alternate. Thank you.*

**AGENDA:**

1. Roll Call
2. Adoption of Agenda
3. Approval of the minutes from the Previous Meeting, July 21, 2014
4. Public Hearing to discuss the following:
  - a) A Petition from Milton Peterson Jr. for a Special Exception/Variance from the Extra-Territorial Plat Approval Requirements as set out in Section 121-35. Property is located at 1702 170<sup>th</sup> Street, New Richmond.
5. Action on Public Hearing
6. Communications and Miscellaneous
7. Adjournment

**Tanya Reigel,**  
City Clerk

If you need a sign language interpreter or other special accommodations, please contact the City Clerk at 246-4268 or Telecommunications Device for the Deaf (TDD) at 243-0453 at least 48 hours prior to the meeting so arrangements can be made.

A majority of the members of the New Richmond City Council may be present at the above meeting.

Pursuant to State ex rel. Badke v. Greendale Village Board, 173 Wis. 2d 553, 494 N.W. 2<sup>nd</sup> 408 (1993) such attendance may be considered a meeting of the City Council and must be noticed as such, although the Council will not take action at this meeting.

**Copies:**

The News                                      Northwest Community Communications  
City Website

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BOARD OF APPEALS  
JULY 21, 2014 - 4:00 P.M.

Members Present: Glenn Highum, Mike Kastens, Bernard Peterson and Bob Pierson.

Member Absent: Dick Nelson

Others Present: Tanya Reigel, Sarah Skinner and Beth Thompson

The meeting of the Board of Appeals was called to order by Glenn Highum.

Roll call was taken.

Mike Kastens moved to adopt the agenda as presented, seconded by Bob Pierson and carried.

Mike Kastens moved to approve the minutes from the previous Board of Appeals meeting on April 8, 14, seconded by Bernard Peterson and carried.

Glenn Highum declared the Public Hearing open to consider the following:

- a) A Petition from Eric Roberts for a variance from rear yard setback from 20 feet to 14 feet to allow him to build a deck. Property is located at 1316 Osprey Court and described as lot 20 of Paperjack Creek Villas.

Dan Licht explained that the request for variance. Eric Roberts stated that he was not aware when he purchased the property that he was so close to the lot line on the cul de sac. Discussion followed.

**Possible Actions**

- 1) Motion to approve a variance to allow encroachment of four feet into the required twenty foot rear yard setback based on a finding that the physical characteristics and dimensions of the subject site are unique within the subdivision and that not approving the variance would deny the property owner rights enjoyed by other lots within the same subdivision. Approval of the variance is subject to the following conditions:
  - a. The encroachment shall be allowed only for an open deck structure that shall not have a roof or otherwise be enclosed.
- 2) Motion to deny the application for variance based on finding that:
  - a. The physical conditions and dimensions of the property are not unique to the subdivision.
  - b. The applicant has the option to construct stairs to an at-grade patio that would comply with the requirements of the Zoning Ordinance including rear yard setback

The Public Hearing was declared closed. Bernard Peterson moved to approve the request to move forward with the variance from Eric Roberts, seconded by Bob Pierson and carried.

Glenn Highum declared the meeting adjourned.

Meeting adjourned at 4:25 p.m.

Tanya Reigel  
City Clerk



3601 Thurston Avenue N, Suite 100  
Anoka, MN 55303  
Phone: 763.231.5840  
Facsimile: 763.427.0520  
TPC@PlanningCo.com

## MEMORANDUM

TO: New Richmond Board of Appeals

FROM: Daniel Licht, AICP

DATE: 27 July 2015

RE: New Richmond – Peterson ETZ Variance

TPC FILE: 164.02

## BACKGROUND

Mr. Milton W. Peterson, Jr. owns a 37 acre property located at 1702 170<sup>th</sup> Street within Erin Prairie Township currently developed with one residential home. Mr. Peterson is proposing to subdivide the property into one 29.5 acre parcel and one 7.5 acre parcel to build a new home upon the smaller parcel. The subject site is within 1.5 miles of the City of New Richmond boundary and is subject to Extra Territorial Zoning (ETZ) regulations established as Section 121-35 of the Zoning Ordinance. Section 121-35.D.1 of the Zoning Ordinance prohibits any property within the ETZ area from being subdivided if it results in creation of a parcel less than 35 acres in size. Mr. Peterson has applied for a variance from Section 121-35.D.1 of the Zoning Ordinance to allow the proposed subdivision with two resulting lots that are less than 35 acres in size within the ETZ area. A public hearing has been noticed for 11 August 2015 at 4:00 PM for the Board of Appeals to consider the application.

### Exhibits:

- A. Applicant narrative
- B. Site Location Map
- C. Detailed Site Location Map/Property Ownership

## ANALYSIS

The ETZ regulations in Section 121-35 are enabled by Wisconsin Statutes § 62.23(7a) for the purpose of allowing cities to review subdivision applications within surrounding areas 1.5 miles

from the City's current boundary. Implementation of this statute is consistent with the State's Smart Growth legislation and the policy adopted as part of the Comprehensive Plan to encourage "land uses, densities and regulations that promote efficient development patterns and relatively low municipal, state governmental and utility costs" for new development. To this end, Section 121-35.D.1 of the Zoning Ordinance limits subdivision of new lots within 1.5 miles of the City boundary to 35 acres or larger so as to ensure the ability to subdivide for roadway and utility corridors with urban expansion. Section 121-35.D.2, 3, and 4 of the Zoning Ordinance also establishes limited exceptions to this requirement:

2. The City may grant approval of a land division dividing a parcel of agriculture land into two parcels, one of which is less than 35 acres in size, if the City determines that the proposed land division will assist and assure continuation of the agricultural use.
3. The City may grant approval of a land division dividing an existing parcel containing 2 or more existing residential buildings into separate parcels for each existing residential building, provided that no new parcel may be created by the division that does not include an existing residential building.
4. The creation of a parcel by certified survey map that is to be transferred to an immediately adjacent property owner is exempt from this Ordinance provided no additional building lot is created.

The applicant has proposed to subdivide an existing 37 acre parcel into a 29.5 acre parcel and 7.5 acre parcel. As shown on Exhibit C of this report, the property is bounded to the west by land owned by the US Fish and Wildlife Service, which may never develop with urban land uses. However, abutting parcels to the north and east are all privately held and may be considered for future urban development that would provide for extension of streets and utilities to the subject site. The proposed subdivision of the subject site resulting in two parcels less than 35 acres in size is prohibited by Section 121-35.D.1 of the Zoning Ordinance and does not meet any of the exception criteria established by Sections 121-35.D.2, 3, and 4 of the Zoning Ordinance. To allow for the proposed subdivision, the applicant is requesting a variance from Section 121-35.D.1 of the Zoning Ordinance. Application for variance is to be considered by the Board of Appeals with their decision based upon a finding that the request satisfies the criteria established by Section 121-33.D.1 of the Zoning Ordinance:

- a. Denial of the variance may result in unnecessary 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 a variance would not be so general or recurrent nature as to suggest that this Ordinance should be changed.

- b. The conditions upon which a petition for variance is based are unique to the property for which the 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.
- c. The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.
- d. The granting of the variance 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.
- e. The proposed variance will not undermine the spirit and general and specific purposes of this Ordinance.

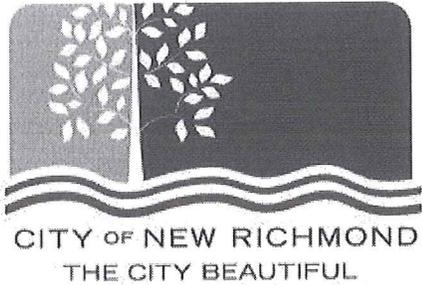
The applicant's narrative outlining the reasons why they believe a variance should be approved to allow the proposed subdivision does not include any description of geographical considerations unique to the property that would make compliance with the Zoning Ordinance an unnecessary hardship. Rather, the applicant's narrative discusses their intended occupancy of the land, which is reason defined by the property owner and not a land use issue. The request to subdivide the property is therefore not exceptional, extraordinary, or unusual in circumstances or conditions applying only to this parcel, but which may be applicable to other property owners and other large rural parcels within the ETZ area. The granting of a variance as proposed would be contrary to the intent of Section 121-35 of the Zoning Ordinance to preserve the City's ability to continue grow and develop with corridors for extension of streets and utilities unimpeded by rural subdivisions and granting the variance may be detrimental to future public welfare if the subdivision were to be a physical barrier to urban expansion.

## **RECOMMENDATION**

The request does not meet the criteria established by Section 121-31.D.1 of the Zoning Ordinance for approval of a variance. The request for variance is not based on unnecessary hardship to the property owner due to geographical considerations, conditions upon which the request for variance is based are not unique to the property, approval of a variance would grant the property owner rights not enjoyed by other property owners within the ETZ area, and approval of the variance would be inconsistent with the intent of the Comprehensive Plan and implementation of the Zoning Ordinance regulations established for properties within the ETZ area. City staff and our office recommend the variance application be denied.

## POSSIBLE MOTIONS

- A. Motion to **deny** the application for variance based upon a finding that the applicant has not demonstrated that the request satisfies the criteria established by Section 121-33.D.1 of the Zoning Ordinance:
- The applicant has not identified any physiographical considerations unique to the property that cause unnecessary hardship in complying with the Zoning Ordinance.
  - The conditions upon which the request for variance is based are not unique to the property and may be applicable to other properties within the ETZ area.
  - Approval of a variance would grant this property owner rights not enjoyed by other property owners within the ETZ area in accordance with the Zoning Ordinance.
  - Approval of the variance is inconsistent with the intent of the Comprehensive Plan and implementation of the Zoning Ordinance regulations established for the ETZ area to promote efficient development patterns and relatively low municipal, state governmental and utility costs.
- B. Motion to **approve** the application based upon a finding that the request satisfies the criteria of Section 121-33.D.1 of the Zoning Ordinance:
- THE BOARD OF APPEALS MUST STATE SPECIFIC FINDINGS FOR APPROVAL.
- C. Motion to **table** for further discussion/more information.
- c. Mike Darrow, City Administrator  
Beth Thompson, Community Development Director  
Nick Vivian, City Attorney  
Sarah Skinner, Building Inspector  
Jeremiah Wendt, Public Works Director  
Tanya Reigel, City Clerk  
Milton W. Peterson, Jr.



## VARIANCE APPLICATION

City Ordinance Section 121-33  
www.newrichmondwi.gov



By: \_\_\_\_\_

**City of New Richmond**  
156 East First Street ❖ New Richmond, WI 54017  
Phone: (715) 246-4268 ❖ Fax: (715) 246-7129

**APPLICATION FEE: \$250 1<sup>st</sup> Request \$300.00 2<sup>nd</sup> Request**  
**ESCROW: \$500**

*Application fee should be made payable to City of New Richmond upon submittal of completed application. Escrow funds will be drawn to cover project-related costs. Additional funds may be required; surplus funds will be returned.*

Please complete the application by typing or printing in ink. Use additional paper if necessary.

### 1. Property Owner Information:

Last name: Peterson, Jr. First name: Milton W  
Address: 1702 170th St. City/State/Zip: New Richmond, WI 54017  
Phone number: 715-781-1746 Email address: \_\_\_\_\_

### 2. Applicant Information: (if different from above)

Last name: \_\_\_\_\_ First name: \_\_\_\_\_  
Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_ Email address: \_\_\_\_\_

### 3. Address(es) of Property Involved: (if different from above)

\_\_\_\_\_

4. **Legal Description** That part of the NW 1/4 of the NE 1/4 Section 8-30-17, Town of Erin Prairie, St. Croix County, WI,; lying North of the Willow River

5. **Variance Requested** Special Exception/Variance from the Extraterritorial Plat Approval requirements as set out in Sec. 121-35

6. **Lot Size** 337,500 **Square Feet** **Width** 450 **Length** 750  
**Setback: Front** \_\_\_\_\_ **Rear** \_\_\_\_\_ **Left** \_\_\_\_\_ **Right** \_\_\_\_\_

**Variance applications must be received by the first Thursday of each month; applications received after this date cannot be heard at the Board of Appeals meeting the following month.**

7. **Proposed Use** Ag/Residential

8. **Reason (hardship, unique situation, etc.)** Intend to divide a 37 acre parcel of land into two  
parcels of <sup>1.5</sup>9 acres and <sup>29.6</sup>28 acres. <sup>29.6</sup>28 acre parcel being sold to my son and daughter-in-law and my  
wife and I will build on the 9 acre. I am sight impaired and need assistance.

9. **Additional Required Information:**

a. **Written Narrative:** The narrative should describe in detail the nature of the intended use, why you believe the variance should be granted.

b. **Consultant Fees:** Whenever third party consultants are utilized in the preparation of application materials (e.g., a traffic study) or the City's review of an application (e.g., traffic study analysis) the applicant shall be responsible for paying the entirety of those costs.

10. **Other Information:** In addition to the written narrative, a scale map of the lot and how existing buildings are laid out on that lot, as well as, where the addition or new building would be placed if the variance is granted.

11. **Signature(s):** By signing below, you attest that the information above and attached is true and correct to the best of your knowledge.

Property Owner: Milton Peterson Jr.

Date: July 15, 2015

Applicant: \_\_\_\_\_

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

Fee Paid: \$250      Date: 7/16/15      Receipt # 61452

Escrow Paid: \$500      Date: 7/16/15      Receipt # 61452

## **Answer to No. 9(a) of Variance Application**

Milton and Lynn Peterson (herein after the Peterson's) would like to divide their land into two parcels. (See attached site plan)

The first parcel will be approximately 7.5 acres which will be home to the Peterson's new home. The second parcel will be approximately 29.5 acres, which contains the current home. This home is to be sold to the Peterson's son, Jayman and Jayman's wife Theresa.

Currently the property is zoned ag-residential. The Willow River flows along the southerly portion of the property. The US Fish and Wildlife borders the westerly border. It should be noted that the US Fish and Wildlife owns large parcels of land running west of Mr. Peterson's property following the twists and turns of the Willow River to the City of New Richmond. The property currently contains a residential dwelling along with a barn that is home Mr. Peterson's three horses. These horses have access to about 8-9 acres of pasture land. This pasture land has not been tilled since the early 1980's and has been used for years for the use of Mr. Peterson's horses. The rest of the property is largely made up of trees and brush.

The Peterson's would like to build this new home to be close to their son, daughter-in-Law, and grandchildren. Milton wants to be able to ride his horses when he chooses to do so. Milton is also sight impaired and needs daily assistance. The new home will be built with one level that will take in mind Milton's disability as well the Peterson's age. Jayman Peterson, will also play a crucial role in assisting his parents on a daily basis.

The use of the property will not change. The horses will remain and will still have access to their current pasture. The construction of the home will not impact the trees and flora along the Willow River. The new home is to be set back several hundred feet from the Willow River.

The purpose of this variance request is not based exclusively upon the Peterson's desire to increase the value or income potential of the property. The Peterson's intend to stay at their new home as long as they are physically able to do so.

The granting of the variance 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. The new home is being built to fit into the property as it is currently used. The Peterson's are well aware of the importance of maintaining the rural nature of the area. The new home would not be incompatible with the adjacent neighboring lots and agricultural lands.

The proposed variance will not undermine the spirit of the general and specific purposes of this Ordinance. The Peterson's have owned this property for a number of years and are not asking this board for a variance to divide their land into several parcels. Milton and Lynn simply want to split a small piece of land from their current parcel that will enable them to continue to enjoy their property as they age. The proposed use of the land is not to be changed. The land will stay as ag/residential.

- 1- EXISTING DWELLING
- 2- OUTBUILDING
- 3- PROPOSED DWELLING

170TH ST

Current Driveway 3

7.175 acres Approx

450'

75'

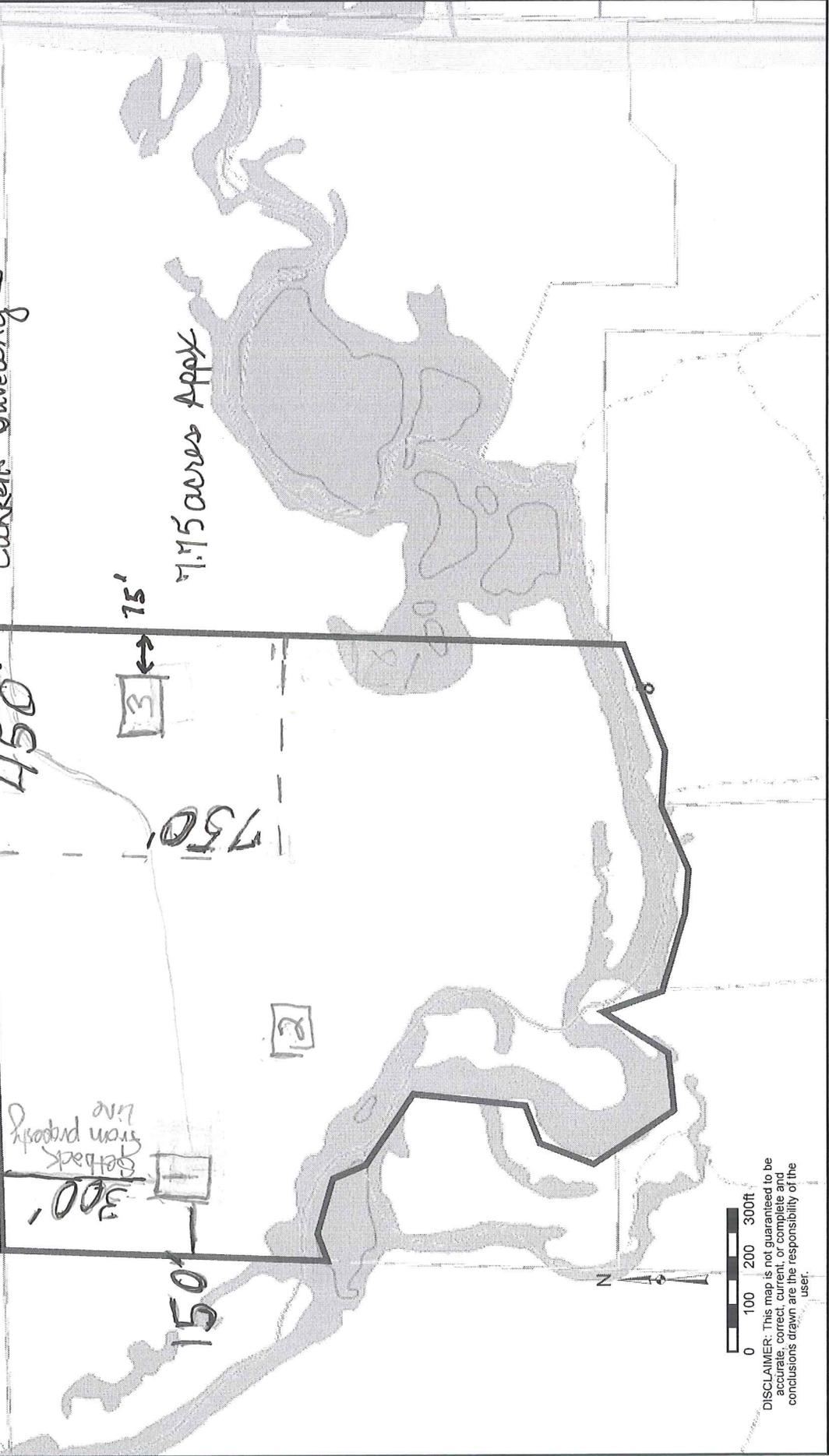
750'

300'  
Setback  
line  
from property

150'



DISCLAIMER: This map is not guaranteed to be accurate, correct, current, or complete and conclusions drawn are the responsibility of the user.



**Tax Parcels Feature Information**

PID: 012102130100  
ALT ID: 08.30.17.110A  
Owner Name: PETERSON, MI  
Property Address: 1702 170TH S  
Post Office: NEW RICHMOI  
Zip Code: 54017  
Acres: 37.000  
Tax Year: 2015

 Report

