

**ZONING BOARD OF APPEALS MEETING**

**Tuesday, April 25, 2017 at 5:00 P.M.**

**Room 2044 in City Hall**

**AGENDA:**

1. 209/213 S. Seventh Street – Steven Schmidt - Variance Request from Section 550-25F(2)(b) and Section 550-84 to allow for adjusting property lines on an already substandard lot

## 209/213 South Seventh Street – Substandard Lot Variance

### **Background:**

Steven Schmidt owns both parcels, 209 & 213 South Seventh Street. Steven Schmidt is looking to move 209 South Seventh Street's property line, South, to approximately 3 feet from the principal structure on parcel 213 South Seventh Street. The purpose for this is to allow for a sole driveway for 209 South Seventh Street. In 2016, Steven Schmidt moved the accessory structure on 213 South Seventh Street to the South side of the parcel. He also created a driveway accessing the accessory structure on the South side of the parcel. Both parcels are located within Zoning District TR-6, Two-Family Residential.

### **Issue:**

The City of Watertown Zoning Administrator has identified the following issues in regards the variance:

1. Substandard lot regulations, per Section 550-84:

#### ***Substandard lot regulations.***

*A. The following section shall apply to all lots in the City except in the following circumstances:*

- (1) The lot did not legally exist as of February 1, 2014.*
- (2) The lot is subject to legal proceedings.*
- (3) The lot is subject to a court order to the contrary of this section.*

*B. Blanket conforming status.*

- (1) Blanket conforming status for any and all requirements of this chapter is hereby automatically granted to all nonconforming or substandard lots in their configuration existing or as finally approved as of the effective date of this chapter. This subsection ensures that lots approved and created prior to the adoption of this chapter do not encounter difficulty because the lots would otherwise be considered nonconforming or substandard.*
- (2) After the effective date of this chapter, no lot shall be created which does not meet the density, intensity and bulk requirements of the zoning district.*

*C. A lot of record existing upon the effective date of this chapter in any zoning district, which does not meet the minimum lot area, width and frontage requirements for the zoning district, may be utilized for new or modified development, provided that such development complies with all of the density, intensity and bulk regulations for that zoning district.*

*D. Abutting vacant substandard lots under the same ownership must be combined prior to development.*

*E. Except for outlots that received variances prior to the effective date of this chapter, this section shall not apply to outlots without access to a public right-of-way that existed prior to the effective date of this chapter since they are not intended for development.*

2. TR-6 Bulk Requirements, per Section 550-25F(2):

**Residential bulk requirements.**

(a) *Minimum lot area: 9,000 square feet (except for twin homes at 4,500 square feet per dwelling unit).*

(b) *Minimum lot width: 85 feet.*

(c) *Minimum street frontage: 50 feet.*

(d) *Minimum setbacks:*

[1] *Front or street side lot line to house: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.*

[2] *Front or street side lot line to attached garage: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.*

[3] *Side lot line to house or attached garage: 10% lot width or a minimum of eight feet, up to 14 feet.*

[4] *Total of both sides, lot lines to house/attached garage: 18 feet or zero feet along common wall.*

[5] *Rear lot line to house or attached garage: 25 feet.*

[6] *Side lot line to accessory structure: three feet from property line; 10 feet from alley right-of-way.*

[7] *Rear lot line to accessory structure: three feet from property line; 10 feet from alley right-of-way.*

(e) *Required bufferyard: see § 550-99D along zoning district boundary.*

(f) *Minimum paved surface setback: three feet from side or rear; 10 feet from street.*

(g) *Minimum dwelling unit separation: 12 feet or zero feet along common wall.*

(h) *Maximum height of dwelling unit: 35 feet.*

(i) *Maximum height of accessory structure: 15 feet.*

(j) *Minimum number of off-street parking spaces required on the lot (includes garage, drives and all designated parking surfaces): three.*

(k) *Minimum dwelling size: 24 feet by 40 feet.*

3. Nonconforming Development Regulations, per Section 550-77:

**Nonconforming development regulations.**

**A. Blanket conforming status.**

(1) *Blanket conforming status for any and all requirements of this chapter is hereby automatically granted to all development sites in their configuration existing or as finally approved as of February 1, 2014.*

(2) *After February 1, 2014, additional site development that would result in the enlargement, expansion or extension of uses, structures or other development per Subsection A(3)(a) to (h) below will not be allowed to occur without bringing such additional site development into full compliance with the provisions of this chapter or to the extent practical without removal of lawful structures, in accordance with the following Subsections B through E below.*

*(3) This subsection is intended to prevent the creation of nonconforming sites related to the building and site design requirements of this chapter. These building and site design components may include one or more of the following:*

- (a) Bulk, intensity and density requirements.*
- (b) Exterior building materials requirements.*
- (c) Exterior building design requirements.*
- (d) Parking, loading, access drive and other paved area design requirements.*
- (e) Landscaping requirements.*
- (f) Bufferyard requirements.*
- (g) Fencing requirements.*
- (h) Lighting requirements.*

*(4) This subsection ensures that sites approved prior to February 1, 2014, do not encounter difficulty because they would otherwise be considered nonconforming.*

*B. All new buildings, structures and parking areas, including additions, shall comply with all site design requirements of this chapter, including the components of Subsection A(3)(a) to (h) above, for the new portion of the development.*

*C. On lots where the site configuration and undeveloped area are sufficient to comply with site design requirements, no enlargement, expansion or extension of a use, structure or paving shall be permitted if it makes compliance with the site design requirements of this chapter, including Subsection A(3)(a) to (h) above, impossible, even if said enlargement, expansion or extension of the use, structure or paving would otherwise be permissible.*

*D. On lots where the configuration and undeveloped area of the nonconforming site provide insufficient space to bring the site into full compliance with all site requirements, but nevertheless provide space to reduce the degree of one or more nonconformities, the Plan Commission shall make a determination as to the manner and degree to which each site's nonconformities shall be brought into conformance specifically to improve public safety and/or reduce public nuisances.*

*E. Enlargements, expansions or extensions that would result in creation of one or more nonconformities, render a nonconforming site incapable of being brought into full or greater compliance with nonconforming site requirements, or increase the degree of existing nonconformities with the site development standards of this chapter shall not be permitted, unless a variance is granted by the Zoning Board of Appeals under § 550-147.*

*Rationale: The "blanket conforming status" provision of this section is intended to prevent the creation of certain nonconforming developments within the jurisdiction of this chapter. The adoption of the provisions of this section ensures that developments approved prior to the adoption of this chapter do not encounter difficulty in transferring ownership because they would otherwise be considered nonconforming.*

### **Options:**

These are the following options, but not limited to, for the Zoning Board of Appeals based on the information received by the City of Watertown Zoning Administrator:

1. Deny the Variance
2. Approve the Variance without any conditions
3. Approve the Variance with conditions identified by the Zoning Board of Appeals

## REMINDER

### **Zoning Board of Appeals.**

*The Zoning Board of Appeals shall have the power and duty to review and determine all matters relating to requested variances from the provisions of this chapter (see § 550-147) or appeals regarding an interpretation of the Zoning Administrator of the provisions of this chapter (see § 550-148).*

*A. Establishment and membership. A Zoning Board of Appeals is hereby established. The Zoning Board of Appeals shall consist of five members appointed by the Mayor, subject to confirmation by the Common Council, for three years, except that, of those first appointed, one shall serve for one year and two for two years. The members shall serve without compensation and shall be removable by the Mayor for cause upon written charges and after public hearing. The Mayor shall designate one of the members Chairperson. The Mayor shall appoint, subject to confirmation of the Council for staggered terms of three years, two alternate members of such Board in addition to the five members above provided for. Annually, the Mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the Board refuses or declines to vote, is disqualified because of interest or when a member is absent. The second alternate shall so act when the first alternate refuses or declines to vote, is disqualified because of interest or is absent, or when more than one member so refuses or declines, is disqualified or is absent. Other provisions herein appearing, with regard to removal and filling of vacancies, shall apply to such alternates. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. Appointments shall be made at the organizational meeting the third Tuesday in April. Terms of office shall commence the first day of May. The City Clerk/Treasurer shall serve as Secretary of the Board. The Zoning Board of Appeals may employ other employees.*

### **B. Organization.**

- (1) The Zoning Board of Appeals shall adopt rules for its government and procedure. Meetings of the Zoning Board of Appeals shall be held at the call of the Secretary and at such other times as the Zoning Board of Appeals may determine. The Chairperson, or in his absence an elected Acting Chairperson, may administer oaths and subpoena the attendance of witnesses. All meetings shall be open to the public.*
- (2) The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals, which is the City Clerk/Treasurer's office, and shall be a public record.*

### **C. Powers.**

- (1) The Zoning Board of Appeals shall have the following powers:*
  - (a) To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.*
  - (b) To hear and decide special exceptions to the terms of this chapter upon which the Zoning Board of Appeals is required to pass.*
  - (c) To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, when owing to special conditions a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.*
  - (d) Permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.*

(2) In exercising the above-listed powers, the Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the Zoning Administrator or other administrative officer from whom the appeal is taken. If a quorum is present, the Zoning Board of Appeals may take action by a majority vote of the members present to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this chapter.

(3) In addition to the foregoing powers, the Zoning Board of Appeals shall have the following specific powers:

(a) To interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown on the Zoning Map accompanying and made a part of this chapter, where the street layout actually on the ground varies from the street layout on the aforesaid map.

(b) To call on any other City department for assistance in the performance of its duties, and it shall be the duty of such other departments to render such assistance as may be reasonably required.

(4) Except as specifically provided, no action of the Zoning Board of Appeals shall have the effect of permitting in any district uses prohibited in such districts.

*D. Appeals.* Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Watertown affected by any decision of the administrative officers. Such appeal shall be taken within a reasonable time, as provided by the rules of the Zoning Board of Appeals, by filing with the officer(s) from whom the appeal is taken and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof, together with payment of a filing fee as may be established by the Common Council. The officer(s) from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record of appeals upon which the action appealed from was taken. The Zoning Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest and shall decide the same within a reasonable time.

*E. Notice of hearing.* The Zoning Board of Appeals shall fix a reasonable time and place for the hearing, cause notice thereof to be published in the official newspaper not less than seven days prior thereto, and cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than 10 days prior to the hearing to the fee owners of record of all land within 200 feet of any part of the subject building or premises involved in the appeal.

[Amended 10-4-2016 by Ord. No. 16-18; 12-20-2016 by Ord. No. 16-24]

*F. Hearings.* Hearings on appeals shall be public and shall be conducted according to the rules of procedure adopted by the Board. At the hearing, the appellant or applicant may appear in person, by agent or by attorney. Decisions of the Board following public hearing may be made either in public or closed session, as the Board shall determine.

*G. Findings.*

(1) Findings of fact and reasons for all actions taken shall be reduced by the Board to writing in the minutes of the proceedings.

(2) In the case of appeal based on variance, for the same to be granted the findings shall affirmatively show the following, together with the fact and the grounds therefor:

(a) A literal enforcement of the terms of this chapter would result in practical difficulty or unnecessary hardship to the appellant.

(b) The variance is not contrary to the public interest and will not endanger public safety.

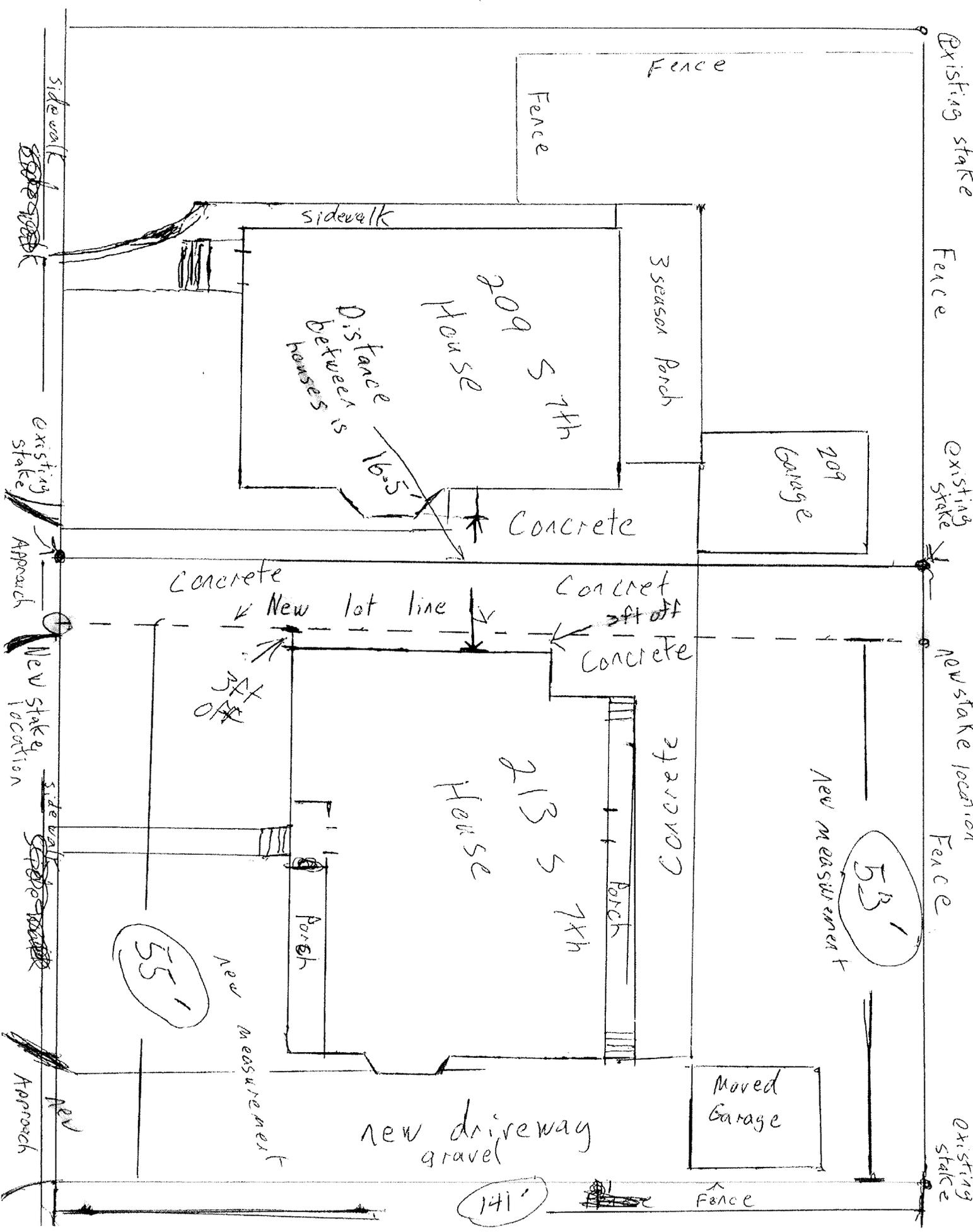


Dear Zoning Board ,

I am writing regarding two parcels which I own, 209 and 213 south 7th Street. What I would like to do is change the lot lines between the two. Last year I put in an approach and driveway for 213 so it would have its own driveway. I also moved the garage which was tight to the 209 garage to be in line with the new driveway. I would like to make the lot line be 3 feet off of the north side of 213. This would make 213 lot smaller but still be a very nice lot. It would also make both lots more appealing to new buyers when I sell them. Both new owners would then be able to put a fence up and have the option to build a bigger garage if they desired and the 213 property would no longer have to carry an easement because the driveway would belong to 209. I would change the lot line so it would be parallel with the 213 house. The lot would then be a little more narrow in the back then in the front but not by much. The lot would be 55 in front and 53 in rear with 141 feet from front to back. These are rough measurements that I took. If approved I will have it surveyed to give exact measurements but it should be pretty close to that as I am going right off the stakes that are there. This change would eliminate any snow plowing or other issues in the future that a shared driveway produces and make both lots look squared off and functional.

Thanks for your consideration in this matter.

Steve Schmidt



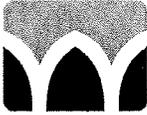
Address of Work

213 S. 7th St

Issue Date

5-5-16

Permit # 16-072



THE CITY OF

WATERTOWN

Building, Safety and Zoning Department

106 Jones Street  
PO Box 477

Watertown, WI 53094

Please call (920) 262-4060 for inspections

Owner Name Steven + Rebecca Schmidt	Contractor Name Samp
Owner Address 213 S. 7th St	Contractor Address
City, State, Zip Watertown WI 53094	City, State, Zip
Phone Number & Contact Name	Phone Number & Contact Name

The undersigned hereby applies for a building permit to do work herein described and located as shown on the attached sheet of this approved permit form. The undersigned agrees that all work will be done in accordance with the zoning ordinance and all other ordinances of the City of Watertown, which includes the State of Wisconsin building codes, which are adopted by reference and made part of the City ordinances, as amended time to time and with all laws of the State of Wisconsin applicable to said premises.

The undersigned also agrees that they are aware of the following Cautionary Statement to Owners Obtaining Building Permits per Wisconsin State Statutes 101.65 (1r) and 101.654 (2a): 101.65 (1r) requires municipalities that enforce the Uniform Dwelling Code to provide an owner who applies for a building permit to sign a statement advising the owner that if the owner hires a contractor to perform work under the building permit and the contractor is not bonded or insured as required under s. 101.654 (2) (a), the following consequences might occur: (a) The owner may be held liable for any bodily injury to or death of others or for any damage to the property of others that arises out of the work performed under the building permit or that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit. (b) The owner may not be able to collect from the contractor damages for any loss sustained by the owner because of a violation by the contractor of the one- and 2-family dwelling code or an ordinance enacted under sub. (1) (a), because of any bodily injury to or death of others or damage to the property of others that arises out of the work performed under the building permit or because of any bodily injury to or death of others or damage to the property of others that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit.

The undersigned has read and understands these statutes as required by the state.

Contractor/Owner Signature

St. M. Schmidt

FOR OFFICE USE ONLY

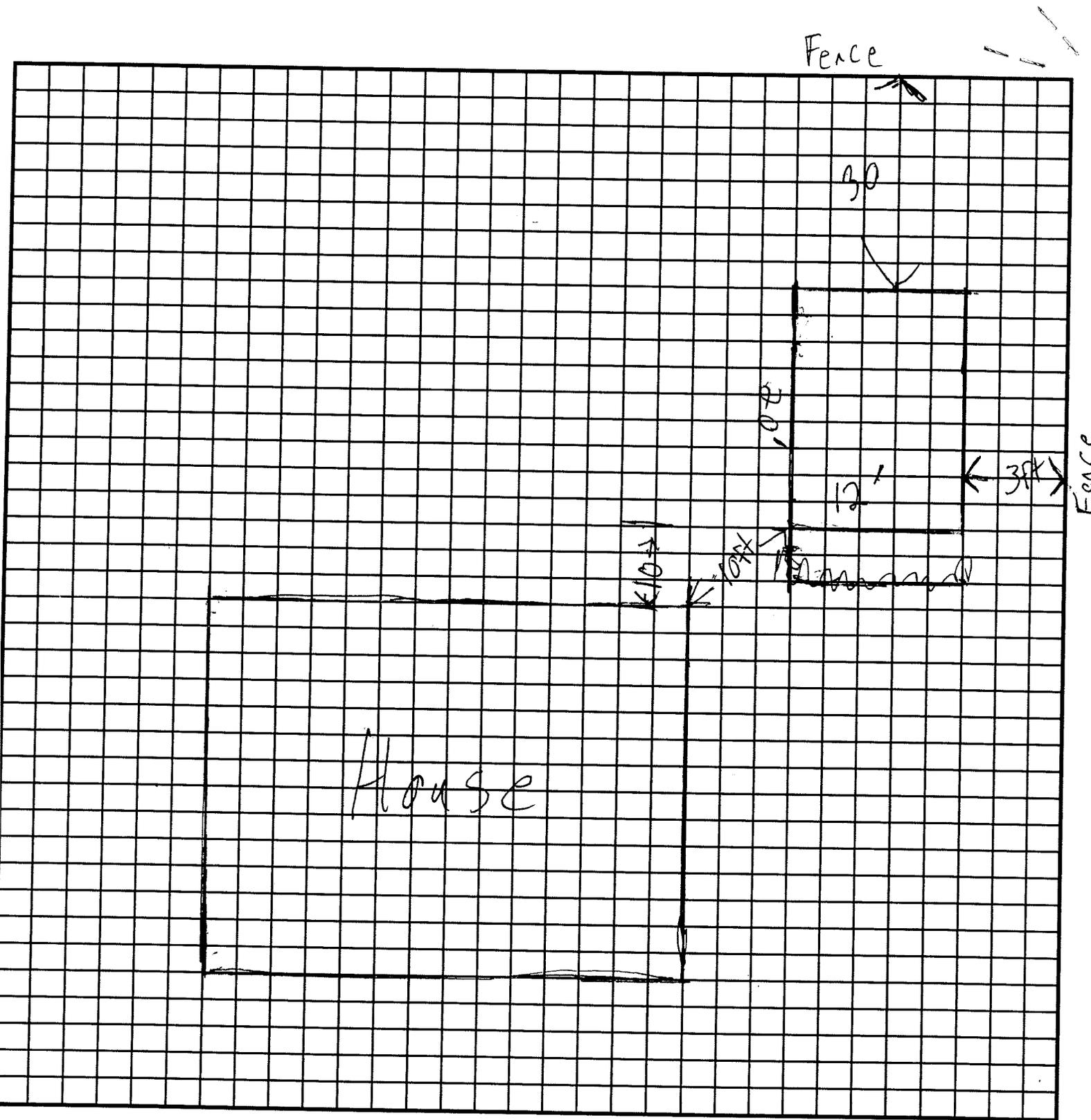
ZONING TR-6 PARCEL # 28-291-0815-0414-067

DESCRIPTION OF WORK Moving Garage From 209-213

PERMIT ISSUED BY [Signature]  
(Building Inspector Signature)

Estimated Cost: \$ <u>1,000.00</u>	Check # Cash <u>556</u> Date: <u>5-5-16</u>
Plan Approval Fee: \$ <u>55.00</u>	\$ <u>55.00</u>
Inspection Fee: _____	Received by _____ Receipt # <u>9357</u>
Early Start Fee: _____	Compliance Statement Received: Y N
Occupancy Permit: _____	
Building Permit: _____	
TOTAL PERMIT FEE: \$ <u>55.00</u>	

DATE	INSPECTION	INITIAL	DATE	INSPECTION	INITIAL
	Footings/Setback			Rough Building	
	Foundation			Insulation/Vapor	
	Ext./Int. Drain Tile		<u>3-8-17</u>	Final	<u>[Signature]</u>



- NOTES:**
- 1) North arrow shall be correctly placed.
  - 2) Draw a completely dimensioned plot plan.
  - 3) Note adjoining streets and/or alleys.
  - 4) Note curb cuts.

Owner
Street Address
Phone No.



Parcels

— City Limits



City of Watertown Geographic Information System

Scale: 1 inch = 25 feet Printed on: April 23, 2017  
SCALE BAR = 1" Author: Private User

DISCLAIMER: This map is not a substitute for an actual field survey or onsite investigation. The accuracy of this map is limited to the quality of the records from which it was assembled. Other interests/inaccuracies occur during the compilation process. City of Watertown makes no warranty whatsoever concerning this information.