

ZONING BOARD OF APPEALS MEETING

Tuesday, June 7, 2015 at 5:00 P.M.

Room 2044 in City Hall

AGENDA:

1. 329 E. Water Street - Taryn and Mitchell Klatt – Variance Request for a Chicken Coop and Run within 25 feet from the property line



THE CITY OF
WATERTOWN

CITY OF WATERTOWN
BUILDING SAFETY & ZONING DEPARTMENT
106 JONES STREET, PO BOX 477
WATERTOWN WI 53094-0477
PHONE # 920-262-4060

BOARD OF ZONING APPEAL

LEGAL NOTICE - CASE # 1-16

The Board of Zoning Appeals of the City of Watertown, State of Wisconsin, will hold a public hearing in room 2044 of the Municipal Building on June 7, 2016 at 5:00 p.m. to hear the following appeals:

Case #1-16

The appeal of Taryn and Mitchell Klatt regarding property located at 329 East Water Street, Watertown, WI, which property is further described as follows:

A part of Lot 2, E. Seibel's Subdivision of Outlots 47 and 48, in the City of Watertown, Jefferson County, Wisconsin, described as follows: commencing at the Northwest corner of Lot 2; thence North 42° 08' East along the Northwesterly line of Lot 2, 33.55 feet to the Northeasterly line of East Water Street and the point of beginning; thence continuing North 42° 08' East, along the Northwesterly line of the lot 153.48 feet; thence South 37° 26' East, 146.13 feet; thence South 52° 34' West 151.30 feet to the Northeasterly line of East Water Street; thence North 37° 26' West along said street line 118.27 feet to the point of beginning. EXCEPTING THEREFROM any portion included in Award of Damages recorded on 12/28/1955 in Volume 294 of Deeds on Page 522, as Document No .511059.

Taryn and Mitchell Klatt are requesting a variance from Section 18.206(x)(1)(e)(iii) to allow Taryn and Mitchell Klatt to place a Chicken Coop and Run within 25 feet from the property line.

All persons wishing to be heard may either attend the public hearing or send correspondence addressed to the Zoning Administrator in regards to these matters.

Jacob Maas

Zoning Administrator

JM/nmz

PUBLISH: May 24, 2015

and

May 31, 2016

(BLOCK AD)

Zoning Board of Appeals

06/07/2016

Preamble

Section 18.909(7) states:

Limited Effect of a Variance

Where the Zoning Board of Appeals has granted a variance, such approval shall neither change the use classification of the building or premises, nor give it any status as a nonconforming use other than that which it has as a result of the variance. Granting of a variance shall be considered as unique to the variance granted, and shall not be construed as precedent for any other proposed variance.

Section 18.934(3) states:

Powers

(a) *The Board of Appeals shall have the following powers:*

1. *To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.*

2. *To hear and decide special exceptions to the terms of this Code upon which the Board of Appeals is required to pass.*

3. *To authorize, upon appeal in specific cases, such variance from the terms of this Code 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 the ordinance shall be observed, public safety and welfare secured, and substantial justice done.*

4. *Permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this Code, 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.*

(b) *In exercising the above listed powers, the 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. The concurring vote of four members of the Board of Appeals shall be necessary 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 Code.*

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

1. *To interpret the provisions of this Code 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 Code, where the street layout actually on the ground varies from the street layout on the aforesaid map.*

2. *The Board of Appeals shall have the power 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.*

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

329 East Water Street

Background

Taryn and Mitchell Klatt purchased a home with a pre-existing chicken coop and run in 2014. Taryn and Mitchell Klatt then began to raise chickens, though the city is not certain when they began raising chickens. In October of 2015 the City of Watertown passed the Keeping and Raising of Chickens Ordinance. This ordinance required anyone wanting to raise chickens to register them and obtain a permit. Outside of a couple properties grandfathered for keeping and raising chickens, keeping and raising chickens was against City ordinances before October 21, 2015. This property was not one of the grandfathered properties. As a result of not having a chicken permit, Taryn and Mitchell Klatt were cited for keeping and raising chickens without a permit. To be permitted for keeping and raising chickens, the owners must follow the guidelines for Section 18.206(8)(x). The pre-existing chicken coop, does not comply with Section 18.206(8)(x)(1)(e)(iii).

Issue

This is the following issue identified by the owner and Zoning Administrator:

1. Section 18.206(8)(x)(1)(e)(iii) states:

The coop shall be a stand-alone structure located in the rear yard at least 25 feet from all property lines and at least 10 feet from the principal structure as depicted in the illustration to follow.

- a. Taryn and Mitch Klatt's Chicken Coop is located 21.7 feet from the Northwest property line

Review (Section 18.910(4)(c))

1. What exceptional or extraordinary circumstances or special factors are present which apply only to the subject property? The response to this question shall clearly indicate how the subject property contains factors, which are not present on other properties in the same zoning district. Specifically:
 - a. The hardship or difficulty shall be peculiar to the subject property and different from that of other properties, and not one which affects all properties similarly. Such a hardship or difficulty shall have arisen because of the unusual shape of the original acreage parcel; unusual topography or

elevation; or because the property was created before the passage of the current, applicable zoning regulations, and is not economically suitable for a permitted use or will not accommodate a structure of reasonable design for a permitted use if all area, yard, green space, and setback requirements are observed;

There is no hardship due to the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of the current, applicable zoning regulations, and is not economically suitable for a permitted use or will not accommodate a structure of reasonable design for a permitted use if all area, yard, green space, and setback requirements are observed

There is a pre-existing coop, but it was not one of the grandfathered properties that existed before October 21, 2016

- b. Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;

The Zoning Administrator is not aware of any pecuniary hardship. The property is residential, there is no commercial loss of profit.

- c. Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting-off existing access to a public right-of-way or deed restrictions imposed by the owner's predecessor in title are considered to be such self-imposed hardships;

The current chicken coops location is a self-imposed hardship by the previous owner. The coop, when installed, was in violation of city ordinances.

- d. Violations by, or variances granted to, neighboring properties shall not justify a variance;

The Zoning Administrator is not aware of any neighboring properties in violation or having a variance in regards to the keeping and raising of chickens.

- e. The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance. (For example, if a lot were unbuildable because of topography in the absence of any or all setback requirements.)

The hardship is not one that would have existed in the absence of a zoning ordinance.

2. In what manner do the factors identified in 18.910(4)(c) 1., above, prohibit the development of the subject property in a manner similar to that of other properties under the same zoning district? The response to this question shall clearly indicate how the requested variance is essential to make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.

329 East Water Street can be utilized for the keeping and raising of chickens. The property owners wish to use a pre-existing non-legal, nonconforming structure as the coop. This is a self-imposed hardship by the current owner and previous owner. There is plenty of space for a chicken coop and run that would follow the setbacks guidelines of 18.206(8)(x).

3. Would the granting of the proposed variance be of substantial detriment to adjacent properties? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on adjacent properties.

No, the proposed variance would not be a substantial detriment to the adjacent properties. The variance would not impact any of the neighboring property's setbacks. The Klatt's would still have to follow the other guidelines of Section 18.206(8)(x) in the keeping and raising of chickens.

4. Would the granting of the proposed variance as depicted on the required site plan (see (3)(d), above), result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of this Chapter, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide growth and development? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.

Due to the limited spatial footprint of the requested variance, there would be no substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of this Chapter, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide growth and development.

5. Have the factors which present the reason for the proposed variance been created by the act of the application or previous property owner or their agent (for example: previous development decisions such as building placement, floor plan, or orientation, lotting pattern, or grading) after the effective date of this Ordinance (see Section 18.011.) The response to this question shall clearly indicate that such factors existed prior to the effective date of this Chapter and were not created by action of the Applicant, a previous property owner, or their agent.

The previous property owner constructed the chicken coop before the October 21, 2016 passage of the Keeping and Raising of Chickens Ordinance. With that said, the chicken coop was constructed while the keeping and raising of chickens was prohibited under the City of Watertown Ordinances.

6. Does the proposed variance involve the regulations of Section 18.206? The response to this question shall clearly indicate that the requested variance does not involve the provisions of this Section.

The proposed variance does involve the regulations of Section 18.206.

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. Denial of the Variance Request
2. Approval of the Variance Request without conditions
3. Approval of the Variance Request with the conditions determined by the Zoning Board of Appeals

5-12-16

5/13/2016

To whom it may concern,

We (Mitch and Taryn Klatt) are applying for a variance in regards to the location of the chicken coop on our property. We wish to leave the coop where it resides which is by code 25ft from one property line, and 20ft from another.

Reasons for variance approval:

- The owner of that property has already emailed stating that they are ok with the coop and chickens being where they are currently. There fore not harming or upsetting any neighbors or other properties.
- The 5 feet to which the coop is too close to the property line the chickens are only in to sleep at night. The run where the chickens reside most of the time is 25 feet from the property line.
- The coop is made from extremely heavy wood and would be hard to move given it has been at that location for an unknown period of time.
- We would have to pay to rent a bobcat to attempt to move it.
- There is fence buried in the ground at least 2 feet all the way around the fence to prevent animals from getting in or out.
- Pushing the coop in 5ft would mean pushing it into the shed and loosing a door on that side of the coop. This means loosing one of the entrances to the coop for cleaning and feeding purposes.

Other related reasoning:

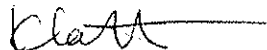
- We have already paid \$80 for a shed that has been here for years longer then we have owned the house.
- We have paid for a chicken permit \$50
- We have registered and been approved with the WI livestock of WI
- We have just installed a 6ft tall privacy fence around our yard.

Attached is a drawing of the yard and where the coop is.

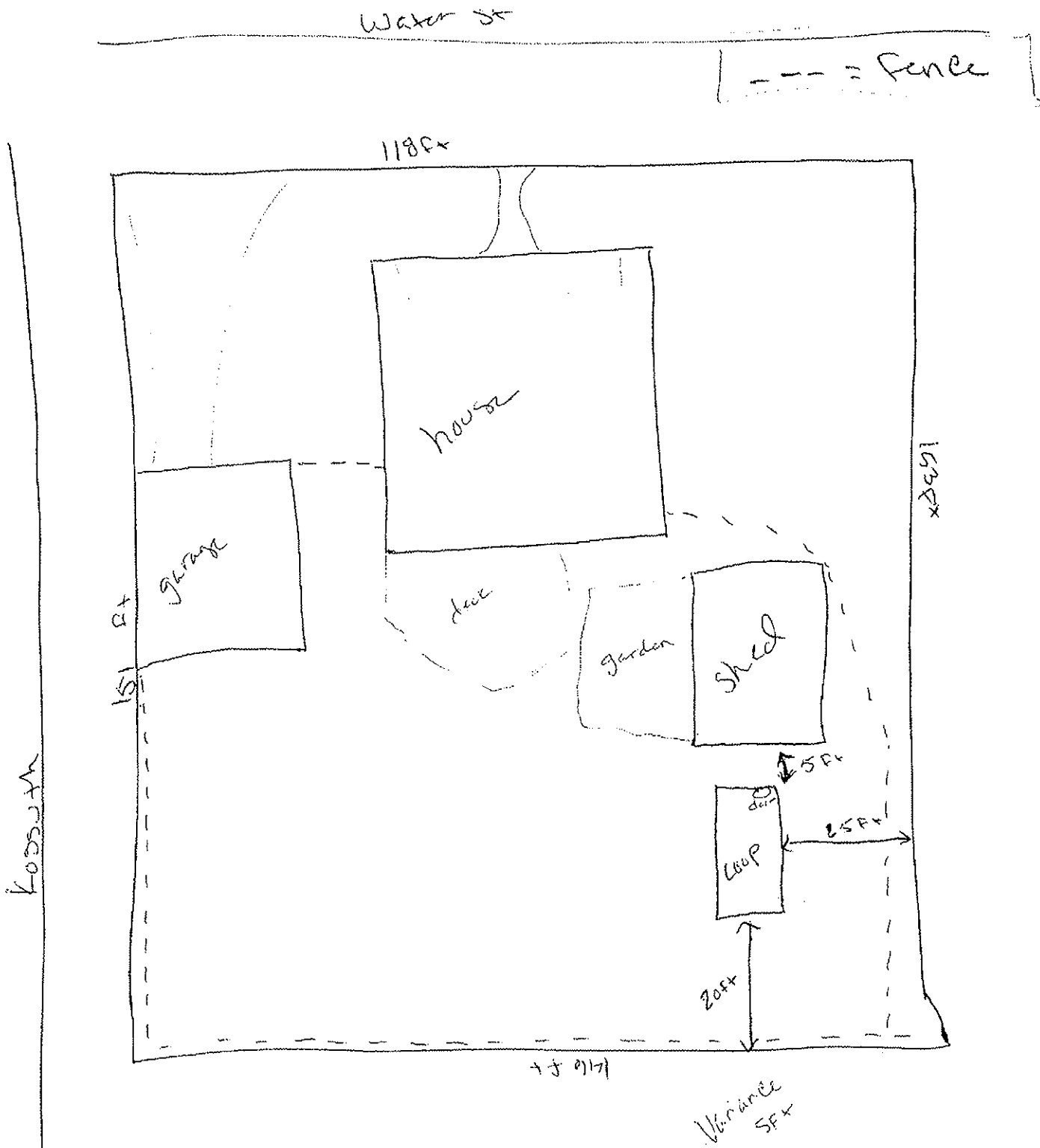
Please feel free to contact us with any questions, and to let us know when the meeting about the variance is to be held so that we are able to attend.

Sincerely,


Taryn & Mitch Klatt

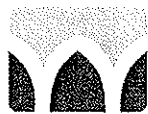


tayer92@gmail.com



Neighbors who emended statutory loop was fire by them.

Address of Work 329 E. Water St Issue Date: 1-27-16 Permit # 16-022



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 <u>Taryn + Mitch Blatt</u>	Contractor Name <u>Same</u>
Owner Address <u>329 E. Water St.</u>	Contractor Address
City, State, Zip <u>Watertown WI 53094</u>	City, State, Zip
Phone Number & Contact Name	Phone Number & Contact Name <u>Taryn - 262-366-9094</u>

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 [Signature]

FOR OFFICE USE ONLY

ZONING TR-6

PARCEL # 28-291-0815-0342-016

DESCRIPTION OF WORK Chicken Coop (to be moved by May 15th 2016)

PERMIT ISSUED BY [Signature]

(Building Inspector Signature)

Estimated Cost: \$ 100⁰⁰

Check # Cash 1364 Date: 04/15/2016

Plan Approval Fee: 55.00

\$ 800⁰⁰

Inspection Fee: _____

Received by Jacob Maar Receipt # 9044

Early Start Fee: _____

Compliance Statement Received: Y N

Occupancy Permit: _____

Building Permit: 25⁰⁰

TOTAL PERMIT FEE: \$ 800⁰⁰

DATE	INSPECTION	INITIAL	DATE	INSPECTION	INITIAL
	Footings/Setback			Rough Building	
	Foundation			Insulation/Vapor	
	Ext./Int. Drain Tile			Final	



**Building, Safety
and Zoning Department**

**RESIDENTIAL
Application for Building Permit**

Owners and/or Contractors:

Please fill out all the information listed below and submit those documents needed for your specific building project. If you should have problems answering any of the questions, please call our office at 920-262-4060. This application must be submitted along with your plot plan, otherwise your building permit will not be processed. At a minimum, the application must be signed by the Owner. If your Contractor completes and/or submits the permit on your behalf, it will require his/her signature also.

Owner Name Taryn + Mitch Klatt	Contractor Name	
Owner Address 329 E. Water St	Contractor Address	
City, State, Zip Watertown, WI 53094	City, State, Zip	
Phone Number 262-366-9094	Phone Number	
Contact Person Taryn	Contact Person	
Estimated Cost of Project - \$100.00	Contractor License No.	Contractor Qualifier No.
LOCATION OF PROJECT Yard	Description of Project	

All building projects, regardless of how small, require the submittal of a Plot Plan. A sample Plot Plan is attached to this application along with a Plot Plan template to use in creating a Plot Plan.

If you need assistance in preparing a Plot Plan, a "Plot Plan Requirements" guide is available in our office or you may contact our office at 920-262-4060. The Building, Safety and Zoning Department staff will assist you in any way we can.

GENERAL GUIDELINES

Prior to an Owner/Applicant completing and submitting an Application for Building Permit, the City encourages the Owner/Applicant to investigate and consider the following:

- 1) Does your project require erosion control?
(See City of Watertown Municipal Code Chapter 20, Subdivision Regulations 20:16 Erosion Control & Storm Water Runoff.)
- 2) Is your project subject to any deed restrictions/subdivision covenants or any other title restrictions?
(Your home owner's association, developer or real estate broker may be able to assist you with this determination and any needed guidance.)

- 3) Is any portion of the subject property in the flood plain, floodway or wetlands?

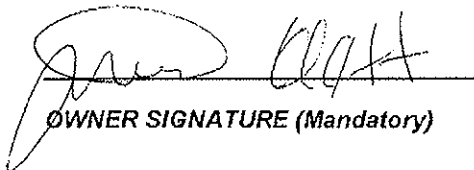
(See City of Watertown Municipal Code Chapter 22, Flood Plain and Shore Line – Westland Zoning may be of assistance in making this determination.)

- 4) Does this project include any excavation within twenty feet (20') of a public right-of-way tree?
(If yes, please contact the City Forestry Department at 920-262-8080.)
- 5) If this project is an expansion of the existing footprint (i.e., building addition), is it in compliance with the following setback requirements?
- a. Front and rear yard setbacks of twenty five feet (25').
 - b. Side yard setback of 10% of lot width or a minimum of eight feet (8'), maximum of fourteen feet (14').
 - c. Outside all easements.*
- * It is the responsibility of the applicant to verify the existence of easements and properly label them on the Plot Plan. Structures are prohibited from being constructed within easements.*
- 6) Is this a renovation that disturbs more than two square feet (2 s.f.) of paint in a home or apartment complex built before 1978? Is it the intent of the owner to hire an outside contractor to perform this work?
(If so, please contact the Watertown Health Department at 920-262-8090 for assistance and information on lead based paint.)

HISTORIC PRESERVATION

- 1) Is this project within the Downtown Historic District?
- 2) If yes, are your plans including exterior improvements to your building?
(If you answered "yes" to the above two questions, the Historic Preservation Commission will need to review your project prior to issuance of a Building Permit.)

By making application, the Owner/Applicant acknowledges, agrees and understands that it is the responsibility of the Owner/Applicant to verify all the information provided to the City and to conduct the due diligence as encouraged above and as may otherwise be necessary. The Owner/Applicant is advised that he or she is responsible for the accuracy and sufficiency of all information supplied to the City. The Owner/Applicant acknowledges, agrees and understands that the City is not responsible for errors, omissions or misrepresentations made by the Owner/Applicant. The City and its staff can only provide procedural guidance and reference. The City and its staff cannot provide legal advice.

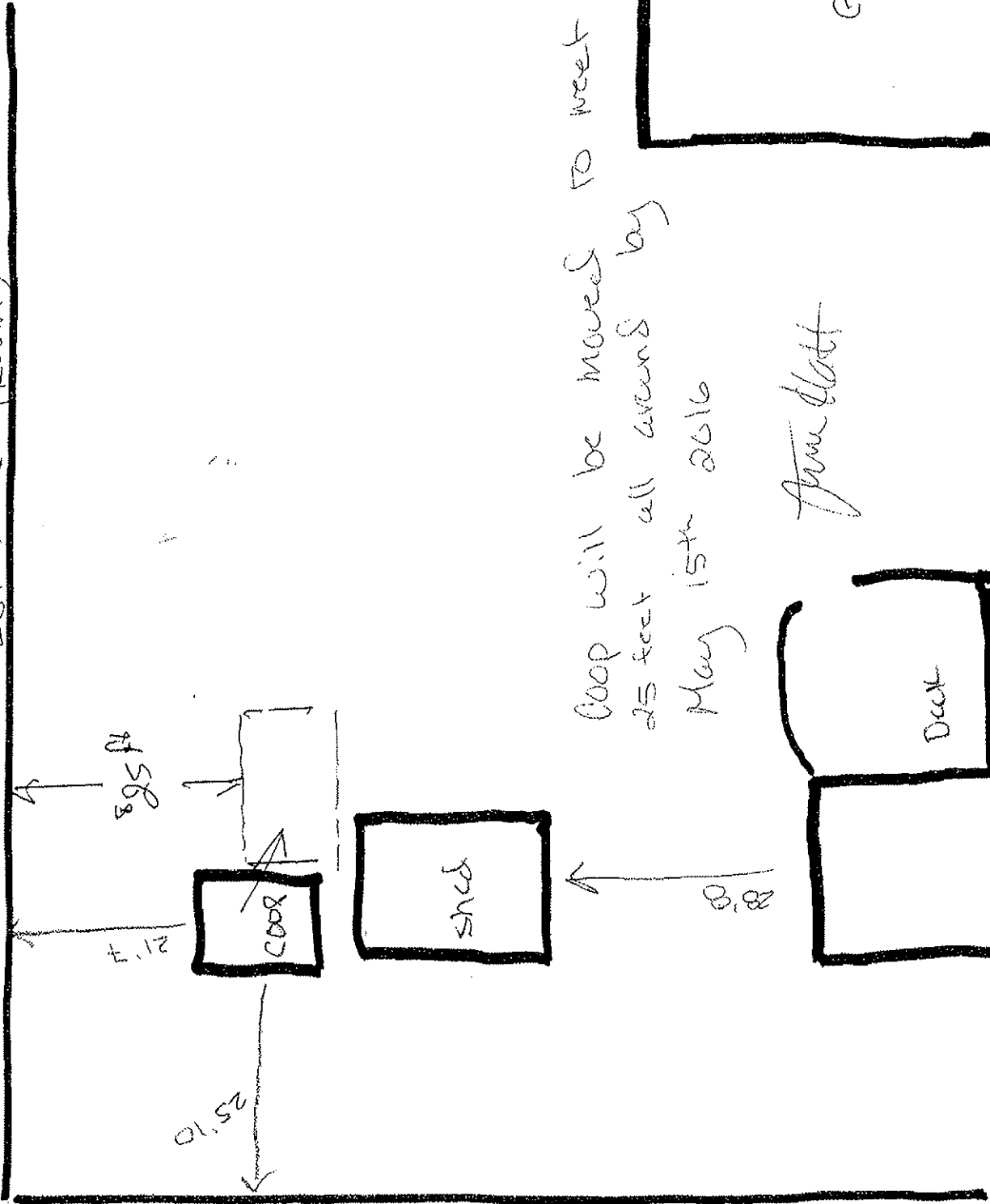

OWNER SIGNATURE (Mandatory)

1-21-16
DATE

CONTRACTOR SIGNATURE

DATE

Lot line (Kevin)



Coop will be moved to meet
 25 feet all arounds by
 May 15th 2016

from Matt

E. Water St

Remover Rd