

**CITY OF HUDSON ZONING & BUILDING BOARD OF APPEALS
PUBLIC HEARING & MEETING
AUGUST 19, 2014**

MEMBERS PRESENT: Conard, Pratt, Neset and Potter

MEMBERS ABSENT: Senkus (excused)

OTHERS PRESENT: Wendy Dunn, Jennifer O'Neill, Alan O'Neill, Roger Humphrey, Mike Hoefler, Tim and Betty Caruso, Jim Zeller, James & Charlene Ebben, Jim McCormick, Jeff Holmes, Bob Carlson, Brian Zeller, Hugh H. Gwin, Jason Adams, Mickey Burt, Denny Darnold, David Gray and Elizabeth Moline

Chairman Neset called the meeting to order at 6:31 p.m.

MINUTES. Motion by Conard, second by Pratt to approve the minutes of the May 20, 2014 meeting. **MOTION CARRIED, 4-0.**

David Gray, Building Inspector/Asst Zoning Inspector stated there are two issues tonight – St Croix Marina and Pier 800. He asked that people sign in if they hadn't already done so as the information is recorded in the minutes.

Chairman Neset stated that application No. 230 public hearing for the St. Croix Marina, 16 First Street was held and discussion took place with action being postponed on May 20, 2014. The applicant then requested postponement on any action until they had time to review with the Department of Natural Resources (DNR) and others before proceeding. The applicant reapplied with a different proposal on July 17, 2014. Therefore, this is being processed as a new variance application including a new public hearing and board discussion.

Chairman Neset further stated that the Board of Appeals (BOA) is a five member board; however, due to an emergency, only four members were available for tonight's hearing and meeting. To grant the variances, there has to be a unanimous vote. For the record, does the applicant wish to proceed? Bob Carlson (on behalf of the St. Croix Marina) stated they agreed to proceed.

Chairman Neset opened the public hearing and stated it was for a variance application from St. Croix Marina, 16 First Street, requesting variances for setbacks from Wisconsin Administrative Code NR 118.6(1)(e)1. Ordinary high water mark setback and NR 118.06(1)(f)1. Bluffline setback to construct a patio with pavers, sitting wall, path lights, and fireplace/fire pit on a portion of the marina property commonly referred to as "The Point" in an I-1, Light Industrial District, Appeal No. 230 (postponed on 5-20-14/revised application submitted 7-17-14).

APPEAL NO. 230. Bob Carlson (representing the St. Croix Marina) stated he has resided at 1704 Laurel Avenue in Golf View since 1986. He wished to thank the BOA for allowing them to postpone. He stated he is the President of the Board of Directors for the St. Croix Marina and Condominiums and wanted to thank the BOA for their consideration.

Carlson stated that as the BOA may recall, the Marina requested a postponement as the DNR comments had arrived shortly before the last meeting; and they did not have time to discuss

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issues with the DNR. On June 24, 2014 they had a meeting at the DNR office in Eau Claire. Those present at the meeting were Mike Wenholz (DNR); Jeff Holmes, Manager (Marina); attorney Paul Kent who specializes in DNR regulatory matters and Denny Darnold (City). He stated that Jason Adams from Northwoods assisted with putting the plan together, and Adams set up a display board of the proposal. Carlson stated it was a cordial meeting and believed with positive expectations. The group talked about the fire pit, paving stones and gazebo. The fire pit is replacement of something already there; the paving stones are okay as long as we could justify the hardship and would need to change the landscaping and size of the paved area; and the gazebo was pretty much out partially because it is a structure too visible from the center of the river during the summer. It could be open to the public, but that is not acceptable to the Marina. DNR acknowledged why we want to do patio and add lighting but were worried about the problem that a lot of people would want to request the same thing. The Marina made some changes; talked about a bunch of changes we have done at the site; took gazebo out (showed items on board); changed the paving stones; and changed the configuration to fit the point. They propose shrubbery to screen the proposed improvements from the water with those changes being made on the (revised) variance application provided.

The message received today from the DNR was a surprise. They agree fully that the recommendations as discussed on June 24 were addressed but will go on record that the Marina does not meet the requirement for the hardship or regulations.

Pratt questioned how the BOA's decision stands with respect to the DNR. Darnold answered that a variance is based on hardship, unique circumstances and protection of the public interest; and the city BOA can approve a variance. The DNR has the right to challenge; and if challenged, the issue would go to circuit court. The DNR does not have veto power as to whether the BOA can or cannot grant a variance.

Carlson stated that the Marina for the past 20 years has spent \$3 million to correct an eyesore that was there before and turn it into something that is better than the beginning. Four buildings have been replaced with two new ones; riprap placed around the broken pieces of concrete and asphalt put in for erosion or whatever; redone docks and surfaces to facilities. Nothing in the Marina can be done without a variance, so they are looking forward to approval. Other things are that they are debt free with cash reserves; they are a solvent entity and will be here for a long, long time and will continue to improve their situation. They want to be good neighbors as they offer the slips for law enforcement for the city, county, state, DNR; host youth activities; have a sailing school; hold boat safety classes; have family celebrations, etc. and unfortunately, they are involved in rescue missions. It is private property with 54% seasonal occupancy with renters and overnight rentals. They want to protect the property. The hardship is very simply that there is a very high population density on a small piece of land. The point is the only place to have small gatherings, and they need a surface to be able to clean and be accessible and to take advantage of the spectacular view; need a rigid surface for aging population and lighting for safety (pointed out on board). Carlson pointed out the barriers to separate parking lot area from gathering area and direct people to center access to avoid getting too close to the slopes. Lights are LED that don't take much electricity. About every 3-5 years the area is covered with water, and other lights

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would get destroyed. Seating wall is for enjoying the fire and showed a display board sample picture of the proposed wall. There are approximately 600 owners with 300 slips with other areas basically covered with asphalt with the point being the only place for the proposed gathering area.

Neset questioned about the lights in the columns and some lights being five feet tall. Carlson responded that they are not lighting anything that hasn't been lit before. Conard questioned if the meeting with the DNR helped for them to understand the Marina's plan. Carlson responded they worked out all the issues with them. Jim McCormick stated that the change in pavers was added at the DNR's request, and he pointed out the area on the board being approximately north of the parking lot. Conard asked if they had read the comments from the DNR received today, and Carlson responded yes. McCormick questioned whether all the pavers should be permeable but are willing to consider but could add along the exterior area.

Conard noted the DNR comment that no columns be allowed as they are not necessary. McCormick noted that there are two columns (about 24" high) with one at each end of the sitting wall (about 18" high) and four columns (about 24" high) separating the parking area from the open area so people come through the center. There are wood columns there now. Columns are low enough so they cannot be seen from the river, and they will be adding shrubbery around the columns. Carlson pointed out the shrubbery on the board and noted it was added as per DNR request. Conard asked about the sitting wall. McCormick stated their intent is to have a vegetative plan screening the parking lot from the river. McCormick stated there are street lights that shine over the whole area, but they would like some lower to the ground for walking purposes – occasional flooding that electrical would be more realistic. The landscaping is what the DNR requested, and they will probably be putting in more than they requested as it 1) helps with visibility/screening and 2) helps with making the area more attractive. The Point is not acceptable to use and enjoy in its present state, so the Marina would like to make it more functional for them as a great meeting place.

Wendy Dunn, 707 Lund St. N, stated that The Point is a safety issue for access by the elderly and persons with disabilities as well as help to provide better access to the area with the proposal. There are many elderly/handicap people that are not able to use the area because of access, and owners should have right to access.

Darnold read the e-mail (dated 8-19-14) from WI DNR Michael Wenholz, Regional Shoreland Specialist (attached as part of minutes).

Conard questioned whether Darnold had any insight as to items listed in the WI DNR comments regarding number one (pavers and maintenance plan) and number four (lighting). Darnold responded that at one time the DNR had suggested that they use a permeable surface preferably gravel or rock, and they suggested permeable materials because stormwater will be absorbed into the ground and not drain into the river. He doesn't know if the cost is that much more. As to the lights, the building code/floodplain electrical outlets of under a certain elevation are restricted; and he highly suggests solar or batteries so the lights can be moved during flood conditions as they are subject to damage. McCormick pointed out the permeable pavers as the center buffer line shown and could do around the exterior circle –

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not sure every paver has to be permeable and have not priced them but are more expensive but can't tell how much more – open to suggestions.

Motion by Conard, second by Potter to close the public hearing. **MOTION CARRIED**, 4-0.

Potter stated she has a different feeling about the request because the structure is gone, but the hardship is hard to show support. It is an area along the riverway that just doesn't look good, and she asked if there are a flood of people that want to do this? Darnold responded that not necessarily in the city, but the DNR is reviewing along the entire river.

Pratt stated that to address the hardship issue, the Marina is trying to provide some outdoor space for their members; and without the variances, it will be hard getting out there and will have to take them somewhere else. It is also a hardship for the Marina renters.

Darnold stated that if the Board was considering granting the variances, he had written up some items for discussion to assist with coming to a decision and finding facts. Board agreed they would like to have his input. He then read the following (*items in italics are additional comments and changes*):

The site is unique in that it is an existing open space used by the St. Croix Marina residents and guests for passive recreation. The area was initially created by the dredging of the St. Croix River when the I-94 bridge was constructed. Due to its proximity to Interstate Highway 94 the site is subject to vehicle noise and traffic that is not common to other areas within the riverway.

Ordinary High Water Mark (OHWM) setback (100 foot setback required):

- The existing fireplace and outdoor gathering area is located entirely within the 100 foot setback area. The proposed structural improvements will include replacing the existing fireplace; provide a sitting wall around part of the fireplace; provide pavers that can be cleaned of geese droppings and other debris; lighting (~~six~~ *five* foot high) that can be removed during winter months and flood conditions and landscaping around the perimeter of the site to provide for capturing storm drainage before it reaches the river and for screening.

Bluffline setback from the slope preservation zone setback (40 feet from the top of the slope facing the river):

- The existing riprap shoreline is greater than 12% slope, but will not be disturbed.
- The area is generally flat and there are no steep slopes that will be altered.

Protection / enhancement of public interest:

- The general appearance of this area from the river will only be altered due to the fireplace, sitting wall and lighting with the maximum structure height of ~~six (6)~~ *five (5)* feet, but will be mitigated with landscaping around the perimeter of the area.

Mitigation measures proposed:

- Open space / landscaping area will be provided around the perimeter of the proposed patio area which will capture storm drainage before it reaches the river and permeable

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pavers will be used in all areas designated for pavers. Light posts will be removable and lights will be powered by batteries so the lights can be removed during the winter months and periods of flooding *and keep within floodplain regulations.*

Address purposes listed in NR118.01 Purpose: The proposal is to redevelop an underused commons / open space area of the marina. This area is subject to unsanitary conditions because of the amount of geese droppings that occur. The improvements will not distract from the scenic, cultural and natural characteristics of the riverway. *The proposal will provide Americans with Disabilities Act (ADA) accessibility.*

The development also addresses the issues to be addressed as listed in NR118.09 (2) (d):

Preservation of scenic and recreational resources; view and use of the river:

- The view from the St. Croix River will not be significantly changed. The development of this parcel does not remove any property that is used for recreational purposes and proposes improvements that can enhance the recreational experience for the marina residents and guests.

Maintenance of safe and healthful conditions:

- The site will be enhanced for use as an outdoor passive recreational use by removing lawn area that is consistently covered in geese droppings and provide a surface that can be cleaned *and for ADA requirements.*

Prevention and control of pollution:

- The site proposes to maintain an open area between the rock riprap on the shoreline and the paved patio areas. The proposed landscape area and use of permeable pavers will allow the stormwater drainage to enter the ground before reaching the river. During the construction phases the site will utilize on-site silt fences to address erosion.

Location of site to floodways, floodplains, slope preservation zones and blufflines:

- No building structures are proposed. Structures proposed will include permeable pavers, a fireplace, sitting wall and lighting. The lighting will need to be battery powered *with standards* to be removed in flood conditions.

Erosion potential of slopes based on degree and direction of slopes, soil types and vegetative cover:

- The area is 3,000 sq. ft. of which approximately 1,325 sq. ft. will be covered with permeable pavers and the balance of the area with landscaping. The landscape area will provide an area around the perimeter of the patio area which will capture storm drainage before it reaches the river.

Impact on terrestrial and aquatic habitat:

- There should be no significant impact on terrestrial or aquatic habitat.

Location of site in relation to future access roads:

- No expansion or improvements of public streets is required.

Adequacy of wastewater treatment:

- The project does not need to be served by municipal sanitary sewer and water services.

Compatibility with adjacent land uses:

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- The area is part of the St. Croix Marina commons area and provides an open area near the river where marina residents and guests can recreate.

Mitigation measures proposed:

- Provision of a six (6) *foot* wide landscape area around the perimeter of the west, north and east sides of the patio area and permeable pavers is proposed to collect stormwater drainage before it reaches the river.

The City of Hudson Board of Appeals find that the application for variances for setback from the ordinary high water mark and bluffline setback by the St. Croix Marina, Appeal #230:

- The denial of the variances will result in a hardship to the property as an open space / passive recreation area because the area cannot be reasonably maintained and enjoyed by the marina residents and guests due to unhealthy conditions from geese droppings *and ADA issues*. The provision of pavers and enhancements will allow the area to be properly maintained.
- The area is unique in that it is an existing area and the variances are requested to allow the marina residents and guests to enjoy the area for the purpose that it was initially developed – open space and passive recreation.
- The petition for variances is not based exclusively upon a desire to increase the value of income potential of the property, but for the enhanced and continued use and enjoyment as an open space / passive recreation area.
- 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 as the improvements will not substantially block views toward the river or substantially change views from the river; the structural improvements will be a maximum of ~~six (6)~~ *five (5)* feet in height. Permeable pavers and landscaping will provide for stormwater management.
- The granting of variances will not jeopardize the spirit in general and specific purposes of the city of Hudson zoning code and NR 118 – Standards for the Lower St. Croix National Scenic Riverway as the improvements are intended to enhance and continue the use of the area of the marina for recreational use and enjoyment of the property without causing views to / from the river to be substantially changed.

Neset stated her feeling is that with minor corrections she is in agreement. It is not ADA accessible, the change to five (5) feet and the question of whether all the pavers should be permeable are items of review. Darnold stated that conditions were items suggested by the DNR and that a landscape plan could be approved by the community development office. Potter asked if they could include the comments from the DNR, and Darnold responded that that is their prerogative. Conard felt that each issue was already handled and included and agreed with the landscape plan review issue.

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Neset questioned whether the columns should be left in as they are only two (2) feet high. Darnold noted that they are proposed to keep the cars and the open area separated, and the Board can have them removed from the DNR list and stipulate that. Neset noted that it is a safety consideration. Potter and Neset noted that it was one of the five (5) conditions of the DNR but agreed the condition for the columns should be removed.

Motion by Conard, second by Potter to approve the request for variances (bluffline setback from 40 feet to approximately 6 feet or 34 foot variance and ordinary high water mark setback from 100 feet to 0 feet as the entire area is within the setback area) with justification as discussed (see above) and modified by Potter and Neset (to include DNR notes except columns):

- All pavers be permeable (no use of impervious pavers), and a maintenance plan and schedule be submitted to the city
- Allow the freestanding wall (with columns) to be fully screened by shrubbery (vegetation)
- The proposed lighting be solar or battery-powered at the minimum height necessary
- Shrubby (vegetation) be native to the St. Croix River watershed, and

with the addition that a landscape plan to be submitted and approved by the city. **MOTION CARRIED, 4-0.**

APPEAL NO. 231. Chairman Neset stated that application No. 231 public hearing for Tim & Betty Caruso and Jennifer O'Neill for 811 First Street was held with additional information presented at the May 20, 2014 public hearing and meeting with action being postponed on May 20, 2014. The request was rescheduled for July 10, 2014 but was cancelled and rescheduled for August 19, 2014. However, it has been published as a public hearing so that if the Board would like to accept any new comments from anyone present it can do so. Otherwise, we will adjourn and proceed to the site and continue with the rest of the meeting as advertised.

Before proceeding with an action, Neset stated that the Board of Appeals (BOA) is a five member board; however, due to an emergency, only four members were available for tonight's hearing and meeting. For the record, does the applicant wish to proceed? Betty Caruso and Jennifer O'Neill said yes.

Neset asked if the BOA wished to reopen the public hearing. Conard asked if there had been recent changes as to the reason why they received new plans. Darnold responded that there were no changes to the plans represented by the set of drawings (dated 3-19-14) as presented for the original hearing/meeting (on May 20, 2014) and addendum pages as presented at that hearing/meeting to remove the four (4) parking stalls (on the southwest corner of the parcel) and redline the adjustments/revisions required to reflect the removal. The new set of drawings (dated 3-19-14 with 8-15-14 revisions) reflects what was presented (on May 20, 2014).

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Gray suggested they open the public hearing as he recognized individuals in the audience that wished to speak. Motion by Potter, second by Pratt to open the public hearing. **MOTION CARRIED**, 4-0. 7:25 p.m.

Chairman Neset opened the public hearing and stated that it was for an application from Timothy & Betty Caruso and Jennifer O'Neill requesting setback variances from Municipal Code Chapter § 255-25, Dimensional Requirements for side yard setback; Municipal Code Chapter § 255-18 St. Croix River Wild and Scenic Riverway and Shoreland Protection Overlay District in reference to Wisconsin Administrative Code NR 118.06 (1)(e)1. Ordinary high water mark setback, NR 118.06(1)(f)1. Bluffline setback and NR 118.06(5) Slope preservation zone standards in reference to renovation of an existing building at 811 First Street and constructing another building to the south and parking area in an OFC, Office District, Appeal No. 231 (postponed on 5-20-14/rescheduled from 7-10-14).

Roger Humphrey stated he is the site engineer and resides in Woodville. He stated a great deal of effort has gone into this project to have the best that can be achieved. He wished to thank the Board of Appeals (BOA) and staff for their efforts. As first presented (on May 20,2014), the plans proposed the removal of four (4) parking stalls which involved moving the retaining wall; so all pages of the plans were adjusted to reflect that change to the proposal. He had an opportunity to review the comments from the DNR, and they have been addressed or there is nothing that they don't agree to.

Humphrey stated Mike Hoefler (HAF Group-architect), the current owner (Betty Caruso), the current owners' real estate representative, the new owner (Jennifer O'Neill), her real estate representative were here to answer any questions.

Gray requested he explain why the loss of four parking spaces. Humphrey stated the application requires addressing three main criteria – 1) hardship, 2) unique property limitations and 3) protection of the public interest. The first is subject to the Board's review. The second took into consideration the DNR comment that only the minimum relief necessary for reasonable use of the property is to be granted. The third was addressed. The southwest corner was reviewed with the proposed redline drawing submitted (at May 20, 2014 hearing/meeting) that shows something that they could do. They viewed the site and incorporated the change into the plans since the May 20, 2014 meeting and the meeting with the DNR and Denny Darnold. Humphrey stated he was not present at the meeting with the DNR but other representatives were. Darnold clarified that the meeting with the DNR was not on site but at Jennifer O'Neill's office with Mike Wenzholz and himself present.

Mickey Burt stated she has resided at 672 Tower Road since 1974. Burt stated she is in the blind as to the plans but owns 721 First Street, south of this project. It is her understanding they are requesting a (side yard) variance from 20 feet to 10 feet. With this in mind, she has tried to picture how this will look when done. This is at the north end of the residence with the furnace and bedroom and is concerned about air quality from the parking lot not to mention what a parking lot is and how much it would affect the residence – constantly used and noise – hard for renters – not happy about it – walking path will be moved and lot will be in flooded area. When the walking path was put in, the property must have been owned by

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the city; and it will be moved down into a flooded area and people use it continuously. Burt further stated that she has talked to Tim (Caruso) regarding the dead trees on the property as a safety issue, and this needs to be addressed. Xcel has been out. She expressed concern that her property was changed from light industrial to residential zoning and didn't know why the city did not notify her of the change. I don't understand. Four blocks up there is a parking lot – concerned about river property and parking lot size; how many stalls – is this the best use for river property aesthetically? Four blocks up, city property became parking lot; again, kind of clueless on how it will turn out. Tim (Caruso) has always had a car parked ten (10) feet from the house and have had complaints. The back of the car is ten (10) feet from the property line so you can see where a building would be, and I am not in favor of it. Originally, the property (former rail line) was owned by the city; and why the city took it over and not returned to the house owners is something else she doesn't understand. She looks forward to going down to the site and knows it will not help the value of her property when it is right up against it and will have noise, exhaust, whatever – have to go with 20 feet – give it a lot of thought – thank you for listening. Potter asked her to confirm address, and Burt responded, 721 First just south (of the proposal).

Hugh Gwin stated he is a resident of the city for many years – was on this committee (BOA). Gwin stated he is very familiar with the property as he spent many hours welding for Nor-Lake when their manufacturing facility was located there. There was another railroad line along the building. He is familiar with NR 118 and the Rivertown Planning as he has been on a joint committee as overseer to work on regulations for Hudson, Prescott, North Hudson along the river. He is a frequent user of the trail and has been on the park board and involved in some of the long range planning of the city park land. Gwin urged the committee to grant the variances that have been requested because the use fits in with the various goals of NR 118. This is not natural, undeveloped land but used by the railroad, used by industries along the river; and this is a good repurposing of a structure that has not been utilized to its advantage; would like to see use of this building in a positive way. He has reviewed the plans and parking lot that are great and feels the environmental issues have been addressed. Downtown parking is a problem and adding parking is what needs to be done in the downtown area. The hardships were not created by the owners and are solving some issues. A natural buffer exists between the property and the river. Gwin said he questions whether the development will devalue Burt's property as the property has been for sale off and on and has been an eyesore that should be improved. The DNR has indicated that the proposal does meet NR 118, and he is in favor of the project.

Burt stated that Hugh said her property is an eyesore. She wanted to put a garage up and increase the deck, and Denny Darnold came down and looked at it and said that it probably wouldn't be approved. The city was not concerned about the look of the building; nothing wrong as it exists. She had buyer, has put sign on boulevard but no advertising; had Westconsin Credit for three months; and she did want to improve it. She would like to know how many stalls are proposed, and Gray responded 67 stalls. Hugh doesn't believe it will be a problem; doesn't feel value will go up and would like to sell; will be constant flow of people coming in and out and will be noise and pollution. Gray clarified that Hugh Gwin was referring to the condition of the Nor-Lake property being an eyesore, and Gwin confirmed.

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Jim Ebben, 815 First Street, stated he lives right next door to the eyesore and is torn but very happy to have it improved. The parking lot will be right in his back yard. Need parking so parking lot will not go away. Parking lot will be open to public after hours, and that is a horrible idea if you know what goes on at the bathhouse/beach parking lot and will move to this location. He will not sit still; police will hear about it and often as there will be loud music, drugs; will call cops and won't stop until they show.

Betty Caruso stated that Tim and her own a house next to the Ebbens and plan to move there within the next two years. Addressed lighting and parking in the purchase agreement; Jenny wants to be a good neighbor.

Motion by Potter, second by Conard to close the public hearing. **MOTION CARRIED**, 4-0. 7:41 p.m.

Motion by Potter, second by Pratt to adjourn and reconvene at the site. **MOTION CARRIED**, 4-0. 7:42 p.m.

Before departure, Chairman Neset stated that she wanted to remind those present that the site visit is still part of a public meeting. There should not be any discussion of the matter when going from City Hall to the site and when coming back from the site to City Hall. The purpose of the site visit is to visually see the areas of the proposed projects, and any discussion is to be done when the meeting is reconvened at City Hall and all can hear what is being said.

Site visit started at 8:10 p.m. on the sidewalk at the south property line area.

Darnold noted the stake for the south property line and that the required setback is 20 feet north of that with the request for a variance to 10 feet. Group moved to the mid-area of the south property line on the trail. Humphrey stated they were very cognizant of the riverway regulations. They kept the development tight to the road and provided an ingress/egress with an island into the site for safety and aesthetics. Hoefler stated the proposed new building was in line with the existing Nor-Lake building, and Humphrey pointed out the southeast and southwest corners of the proposed building. Hoefler noted the height from floor to floor is 12 feet.

Darnold stated that NR 118 allows the removal of diseased and dead trees. He further stated that the city owned the property when the trail was put in and exchanged land with Nor-Lake prior to their move with survey being done last year that showed the trail was not on city property. Humphrey showed area on set of plans and noted the island area to identify a private street vs. public street. Humphrey noted the parking behind the house (to the north and west) and that it would be lower than the residences. About 50 feet from the south property line there will be four (4) parking stalls and two (2) handicap parking stalls adjacent (west) to the building. Burt asked if there was a buffer between the parking and path, and Humphrey answered that there are plantings proposed. Darnold stated that if a variance is granted, a mitigation plan may require that trees that are removed must be replaced either on

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the property or adjacent city property. Burt questioned the height of the building, and Hoefler answered that it would be the same as the existing with the tower on the north slightly higher and that is for aesthetics. Humphrey gave an explanation of the line of vision in relationship to the parking.

Group proceeded to the north end of the site west of the existing building.

Neset questioned how close the parking area would be to the trail, and Humphrey noted it would be approximately five (5) feet from the property line. He pointed out the wall area that was the previous dock area, the vegetative area on the slope (northwest of the existing building) to be preserved and pointed out on plans, retaining wall along the path area, stormwater/rain garden area and explained how the stormwater chambers are under the parking lot, and the fire access area proposed on the north end. Pratt inquired about snow removal, and Humphrey responded that some of the slope areas would be used, open spots in the parking lot area and may have to haul some out. Darnold noted that they will have to develop parking as required or show proof of parking and possibly could have an agreement for the development for some of the parking as needed in the future.

Motion by Pratt, second by Conard to adjourn and return to City Hall. **MOTION CARRIED**, 4-0. 8:30 p.m.

Motion by Conard, second by Pratt to reopen the meeting. **MOTION CARRIED**, 4-0. 8:41 p.m.

Darnold stated he did not want to be presumptive but did have some comments. Chairman Neset asked if the Board wished to hear them, and the Board agreed to accept for review purposes. Darnold asked whether the Board had the DNR comments, and the response was yes. Potter stated she would like to see something but thinks there is a lot proposed. He then read the following (*items in italics are additional comments and changes*):

The site is unique in that it is an abandoned industrial site which includes a dilapidating warehouse building and an abandoned rail line. To initially construct the rail line the spoils were placed on both sides of the rail bed and an access driveway added at a later date producing unusual areas of which some of the slopes are 12% or greater and contain large rocks and other debris. The site is also unique in that this is the only former industrial site along the river that has not been redeveloped. The river was initially developed for industrial uses particularly the lumber mills which used the river and railroad for transporting logs and milled products.

Side yard setback:

- The request for a reduced side yard setback for the south building (reduced from 20 feet to 10 feet) is consistent with the setbacks for residential structures in the neighborhood and will allow the building to be moved ten feet further south to be located to provide off-street parking that is accessible to senior citizens and persons with disabilities. The

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building height will be limited to 35 feet which is the maximum height of residential structures in the neighborhood.

Landscape Setback – Setback for Parking Lots:

- Parking lots are proposed closer than 10 feet (*generally 4-6 feet*) from the property line, but these areas will be adjacent to open space / city park lands.

Ordinary High Water Mark (OHWM) setback (100 foot setback required):

- The development parcel does not abut the river and does not have riparian rights. The land to the west of the site abutting the river is owned by the city of Hudson and is used for park purposes. Visibility of the parcel from the river is limited because there is a grove of mature overstory trees along the shoreline. The main river channel is located over ¼ of a mile to the west.
- The applicant is seeking minimum relief as the parking lot has been reduced in area to provide for the minimum number of off-street parking spaces required by the city of Hudson zoning code. The parking lots are designed with minimum stall dimensions of (18 feet) and maneuvering lanes (24 feet) to reduce the overall parking lot area. Parking at the south building is designed to better accommodate seniors and persons with disabilities with grade level access.

Bluffline setback from the slope preservation zone setback (40 feet from the top of the slope facing the river):

- The areas with slopes of 12% or greater are small isolated areas created by the development of the rail lines and access driveway, thus are not natural slopes. The greatest length any one of an area of a slope preservation zone is 54 feet (horizontal distance). The maximum vertical distance is nine (9) feet that would be subject to grading.

Grading in slope preservation zones (slopes 12% or greater):

- Grading will occur on the site within slope preservation zones (areas with slopes facing the river with grades of 12% or greater). These areas are small in area created by the grading of the rail line and an access driveway and are comprised of rocks and other debris. The grading / erosion control can be managed by implementing stormwater and erosion best management practices.
- The slope preservation zones are located on the south part of the site where the south office building and associated parking are proposed. The south building will be used to provide legal services to senior citizens that need grade level parking for persons with disabilities and compliance with the Americans with Disabilities Act (ADA) accessible standards.
- Grading will require the removal of trees of which several are diseased and /or dying and are secondary growth trees such as box elder and black locust. Trees removed, which are not diseased or dying, over one (1) foot in diameter will be replaced with trees of four (4) inches in diameter or greater. (*DNR is more liberal.*) Location of the replaced trees will be on-site or on nearby park property. The site will be designed for on-site stormwater infiltration through the use of rain gardens or underground

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infiltration systems and other stormwater / erosion best management practices. A stormwater management plan will be proposed to the city of Hudson and the Wisconsin Department of Natural Resources for approval.

Protection / enhancement of public interest:

- Some of the stalls in the parking lots will be made available during non-business hours for users of the trail system and non-motorized boat launch, thus enhancing public use of the riverway. *(This is an issue that will be reviewed with the Common Council and property owner.)*

Mitigation measures proposed:

- Some of the parking stalls will be made for use during non-business hours for park and riverway users of the trail system and non-motorized boat launch (Orange Street).
- Best management practices for the stormwater and erosion control will be implemented including underground stormwater chambers and rain gardens and the typical use of perimeter silt fencing and off-site sediment logs.
- Trees removed over one (1) foot in diameter will be replaced on a one on one basis and planted on-site or on adjacent city park land with trees of a minimum of four (4) inches in diameter. *(Again, different than DNR.)*

Address purposes listed in NR118.01 Purpose: The development is proposed to redevelop underused parcels which are now zoned for office development. The parcels will be combined to provide for two office buildings which will be designed to compliment the residential structures in the area including the proposed height and massing of the buildings. The northern building will utilize the footprint of the existing warehouse facility and be designed to provide for an open area to provide for the appearance that there are two buildings (in keeping with the massing of buildings of the nearby residential neighborhoods). The development will utilize stormwater management systems and best management practices, including underground stormwater chambers and rain gardens, to prevent pollution and contamination of the St. Croix River, groundwater and soil erosion. The development will be on municipal sanitary sewer and water systems. The proposed development will replace a dilapidated building and grounds and maintain and improve property values. The development proposes to provide additional public parking and access, during non-business hours, to the abutting park / trail system and a non-motorized boat launch at Orange Street for the enjoyment of residents and visitors to the Hudson area and riverway without distracting from the scenic, cultural and natural characteristics of the riverway.

The development also addresses the issues to be addressed as listed in NR118.09 (2) (d):

Preservation of scenic and recreational resources; view and use of the river:

- The view of this area from the St. Croix River will not be significantly changed. The site is substantially screened by a grove of mature overstory trees located west of the site on land that is owned by the city of Hudson and used as park land. The development of this parcel does not remove any property that is used for recreational purposes and proposes to enhance access to recreational by allowing off-street parking to be used

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during off-business hours for access to the city's trail system and non-motorized boat launch.

Maintenance of safe and healthful conditions:

- The site will be redeveloped as two office buildings and associated off-street parking. The site consists of a dilapidating building and associated grounds which currently are a concern of safety in their current conditions.

Prevention and control of pollution:

- The site proposes to utilize best management practices including on-site underground stormwater chambers and rain gardens to significantly reduce any runoff to the river. During the construction phases the site will utilize on-site silt fences and off-site sediment logs to address erosion. Stormwater and erosion control plans will be required to be submitted to the city and Wisconsin Department of Natural Resources for approval.

Location of site to floodways, floodplains, slope preservation zones and blufflines:

- There are small areas of slope preservation zones created by grading of the rail lines and access driveway. The area of the former rail line is at the regional flood elevation (692' msl). Buildings will be constructed at elevations at least two feet above the regional flood elevation.

Erosion potential of slopes based on degree and direction of slopes, soil types and vegetative cover:

- An erosion control and storm water management plan will be required to be submitted to the city of Hudson and Wisconsin Department of Natural Resources for approval. Initial management plans submitted for this review include provision of underground stormwater chambers, rain gardens, silt fencing and sediment logs.

Impact on terrestrial and aquatic habitat:

- There should be no significant impact on terrestrial or aquatic habitat.

Location of site in relation to future access roads:

- No expansion or improvements of public streets is required. The project will allow for improved access to the city's trail system and non-motorized boat launch by providing off-street parking during non-business hours.

Adequacy of wastewater treatment:

- The project will be served by municipal sanitary sewer and water services.

Compatibility with adjacent land uses:

- The property designated as office development in the city's comprehensive plan and zoning district map. The use of the property will allow the redevelopment of the site compatible with the neighborhood residential, public and commercial uses.

The City of Hudson Board of Appeals find that the application for variances from the setback from the ordinary high water mark, Appeal # 231 (based on plans submitted to the city of Hudson Board of Appeals dated March 19, 2014 and amended development plans dated August 15, 2014 based on information and development plans submitted at the initial hearing date of May 20, 2014):

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- The denial of the variances will result in a hardship to the property owner as the site is a prime redevelopment and is zoned for office use. The need for variances particularly in the south part of the site will allow office development that can provide disability access in conformance with the Americans with Disabilities Act (ADA).
- The area is unique in that it is an existing area and the variances are being requested to redevelop a former industrial site that is not significantly visible from the river and physical characteristics (slopes) were created by the development of the rail line and access driveway creating small isolated man-made slopes of 12% or greater.
- The petition for variances is not based exclusively upon a desire to increase the value of income potential of the property and the development as proposed will allow development which will allow access to proposed buildings that is in compliance with the Americans with Disabilities Act (ADA).
- The granting of the variances will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood. The surrounding neighborhoods are a mixture of residential, commercial and public uses. Development of this area will create office development that will primarily be occupied during the daytime and early evening hours and the development is designed to reflect the size and spacing of buildings in the existing neighborhood.
- The proposed variances will not jeopardize the spirit in general and specific purposes of the city of Hudson zoning code and NR118, Standards for the Lower St. Croix National Scenic Riverway as the improvements will not be significantly visible from the river and will replace a dilapidated building and ground conditions. The property owner has agreed to mitigation impacts on the riverway by providing off-street parking during non-business hours for access to the city trail system and non-motorized boat launch; replace trees to be removed by grading activities; and provide stormwater management and erosion control systems to be approved by the city of Hudson and Wisconsin Department of Natural Resources.

Conard stated he would like to get a sense of what the Board thinks. Neset stated she is somewhat in the same position as Potter – two buildings, replace existing Nor-Lake warehouse and add another building may be too much. Conard noted there is space where the second smaller building is proposed to go. He further stated that he does not want to miss the opportunity to revitalize and redevelop – would be sad, and this would do it. Not sure if it could be scaled back – some questions have been answered and more can be answered. He is in favor of the project, and Darnold has provided strong justification that is needed. Pratt stated it needs to be approved – some sympathy for property owner on south end of development. Potter stated that it seems like a lot to do in that space – look at parking – have to go all the way down - is below house (on north), and they have to look at it and hear. Potter further stated she is having difficulty – do we have to grant variance so it is so close to 721 First Street? Conard noted that the distance from a house to property line is ten (10) feet for residential. Potter responded that it is not a house – it is a really tall building.

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Darnold stated the Board can deny the setback and approve other requests. Neset stated she approves of all of the landscaping and rainwater considerations done for the parking lots and area – thinks it is great landscaping that will make a difference. Potter questioned what the plan commission and common council will emphasize their review on for the project. Darnold stated the concept plan is reviewed by the plan commission with the final plan reviewed by the plan commission with a recommendation to the common council. Potter questioned if the common council can discuss parking time, etc.; and Neset commented that it would be good to have parking for the city. Darnold responded that it will all be provided for city review and felt that the city would be cautious such as parking during late night hours.

Potter noted the DNR thoughts and comments. Conard stated he thought they all have been addressed or can be, and Humphrey agreed. Darnold noted two issues: 1) trees being removed – any tree being removed in riverway is being replaced with more substantial and any dying or diseased tree can be removed and 2) lighting – plan commission and common council will definitely be looking at whether they will be on timers such as 10:00 p.m. – ways to address issues.

Gray noted that there was a second structure on this site at one time, and it is being restored and resituated. Potter asked what neighborhood was like back then, and Gray responded he couldn't say. Pratt questioned whether the developer could make good use of the property if they owned it (721 First Street). Darnold offered the opinion that if the adjacent property became part of this development that a variance for the setback would not be necessary, and they would have additional green space that would enhance their development.

Neset stated that the Board had one issue of the side yard setback – don't know what we all agree on that or not. Conard stated he was not uncomfortable with it – comfortable with granting a ten (10) foot variance. Potter stated she thought it was too close to the home. Conard stated he was not sure what that would do to the building plans – he thought two buildings going in and to utilize that space is great. He would like to see that whole area be developed. If this doesn't go through, don't know if anything would go through. Pratt stated that a solution to that would be that somehow put in stipulation to try and acquire the adjacent property, and Darnold noted that that would not be appropriate. Neset stated that if the Board doesn't grant the variance they will have to look at what they have to do. Conard stated one route might be to acquire, and Neset responded that that would be their decision.

Potter questioned if anyone was concerned about the parking lot setback. Neset questioned if there were any other issues, and Conard questioned if anyone was uncomfortable with any other issue. Pratt responded that he was not. Neset suggested adopting the language that

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Darnold provided that at least two don't agree on side yard setback. Conard stated he thought they were meeting the three criteria and expanded on. Neset noted except for side yard setback. Potter questioned whether we were making too much of that issue. Darnold noted that the BOA has to determine if there is hardship and unique property limitations to grant variances, and the owner would have to decide how to proceed. Potter and Conard wondered if there was any flexibility with the access area. Gray stated he wanted to offer information and was not recommending approval. A house could be built at the ten foot setback and be 35 feet high. Conard asked what the height of the proposed building is, and Hoefler responded 24 feet. Neset stated that after that explanation she could let that variance (side yard setback) stay too. Conard noted that it puts it in a good perspective. Conard further stated that it is good for Hudson, good for neighborhood – take care of an eyesore, just hope they can reroute the walking path.

Neset asked if the Board could at least agree on the other variances – that we will be willing to grant them since there will only be four voting, it will have to be unanimous. Postponement was suggested. Darnold suggested putting a motion on the floor for balance and to discuss.

Motion by Conard, second by Pratt to grant all the variances (parking lot setbacks from the south and west property lines from 10 feet to 4 feet being 6 foot variances; bluffline setback in the area south of Elm Street and along the west property line for proposed parking from 40 feet to zero (0) feet being a 40 foot variance; ordinary high water mark setback from 100 feet to 65 feet (at the nearest point to west property line) being a 35 foot variance; and slope preservation areas in the south area at two locations where the parking lot is proposed) with the documentation that was provided by Darnold (see above) other than the variance on the 10 foot side yard setback for the south property line. **MOTION CARRIED, 4-0.**

Potter stated she suggested trying to picture a house instead of a concrete building, looking at being in the house (721 First St.). Does it fit in context of neighborhood with what it is zoned for and seeing it there? Conard noted he can see that neighborhood being further developed. Humphrey stated they appreciate the Board's efforts with having the hearing and discussion. He noted the ordinance can create a stagnant area. Jennifer (O'Neill) is applicant and needs the parking for her clients. While the Board was discussing the issue, they reviewed the overall project in the aspect of carving or changing something on the building so they can create another five feet of space (from the south property line). Neset indicated that she prefers the five foot variance.

Burt stated, "Give me back my business zoning." Darnold stated the Board cannot address that issue. She can come to the plan commission to review. The developer is requesting to

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reduce the side yard variance request from ten (10) feet to five (5) feet. Burt stated she will remove her complaint as she didn't want to be the one to stop the project.

Motion by Conard, second by Potter to grant a five (5) foot variance from the south property line (side yard setback from 20 feet to 15 feet) based on the criteria as presented by Darnold and discussed (see above). **MOTION CARRIED, 4-0.**

OTHER BUSINESS FOR INFORMATION PURPOSES ONLY OR FOR UPCOMING AGENDAS. Thursday (August 21, 2014) night hearings/meeting.

Motion by Potter, second by Conard to adjourn. **MOTION CARRIED.** 9:29 p.m.

Respectfully submitted,
Elizabeth Moline, Secretary