



Dane County Zoning & Land Regulation Committee
Land Division / Subdivision Variance Application

Date: 8-28-18

Landowner information:

Name: THOMAS H. NELSON DIANA M. NELSON
Address: 4927 FELLAND Rd. City: MADISON Zip Code: 53718
Daytime phone: 608-279-0491
Fax: _____ E-mail: nelhomes@gmail.com

Applicant information (if different from landowner):

Name: _____
Address: _____ City: _____ Zip Code: _____
Daytime phone: _____
Fax: _____ E-mail: _____
Relationship to landowner: _____
Are you submitting this application as an authorized agent for the landowner? Yes ___ No ___

Property information:

Property address: 4927 FELLAND Rd. MADISON 53718
Tax Parcel ID #: 014/0810-352-9690-0
Certified Survey Map application #: 13825 Date Submitted: _____
Subdivision Plat application #: _____ Subdivision Name: _____
Rezone or CUP petition #(if any): _____ Rezone / CUP public hearing date: _____

Summary of Variance Request:
What ordinance provision(s) are you seeking a variance from? (e.g., 66' lot road frontage requirement)

What hardship(s) will result if a variance is not granted? (Be specific, use additional pages if necessary.)

Applicants will be informed as to time and date of the meeting when their appeal will be heard by the Zoning & Land Regulation Committee.



MEMORANDUM

To: Dane County Zoning and Land Regulation Committee

From: Christopher Badtke, PLS

Date: August 17, 2018

Project No.: 74-0395.00

Re: Two Lot Certified Survey Map in Section 35, Town 8 North, Range 10 East, Town of Burke

Lot 2 of Certified Survey Map (CSM) 13825 is proposed to be divided by a two lot CSM. Lot 2 of CSM 13825 currently does not have any frontage on a public street as required by Chapter 75 of the Dane County Ordinances. Lot 2 does have access to a public street, Felland Road, via an access easement over Outlot 2 of adjacent CSM 13607. When CSM 13825 was recorded Lot 2 was granted a waiver from Chapter 75 of the Dane County Ordinances regarding the street frontage requirement. Without approval of a waiver granted by the Dane County Zoning and Land Regulation Committee allowing for access to the proposed lots of CSM 13825 the owners of Lot 2 will not be able to pursue this land division.

If approved access to Felland Road from the proposed two lot CSM will be provided via the access easement that was granted by Document Number 5099105. This access easement covers Outlot 2 of CSM 13607 that is adjacent to and North of the proposed 2 Lot CSM. This would provide both Lots of the proposed CSM access to Felland Road via access easement recorded in Document Number 5099105.

Attachment: Document Number 5099105

ACCESS EASEMENT AGREEMENT

The **City of Madison**, a Wisconsin municipal corporation (the "City"), being the owner of the property hereinafter described, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, does grant, set over and convey to **Thomas H. Nelson and Diana M. Nelson**, (collectively, the "Grantee"), their successors and assigns, a non-exclusive easement (the "Easement") for shared access purposes over, upon and across the "Easement Area" as hereinafter described.

WITNESSETH:

WHEREAS, the Grantee is the owner in fee simple of certain real property (the "**Grantee's Parcel**") located at 4927 Felland Road in part of the SE ¼ of the NW ¼ of Section 35, Township 8 North, Range 10 East, Towne of Burke, Dane County, Wisconsin, more particularly described as follows:

Lot Three (3) of Certified Survey Map No. 1472 recorded in the Dane County Register of Deeds Office in Volume 6 of Certified Survey Maps, Page 165, as Document No. 1402463 in the Town of Burke, Dane County, Wisconsin, EXCEPTING THEREFROM that part set forth in Deed recorded December 8, 1999 as Document No. 3177246 and subject to easement in Document No. 5042786.

WHEREAS, the City is the owner in fee simple of certain real property (the "**City's Parcels**") adjacent to the Grantee's Parcel and located at 1220 and 1224 Felland Road, in the City of Madison, Dane County, Wisconsin, more particularly described as follows:

Outlot One (1) and Outlot Two (2) of Certified Survey Map No. 13607 recorded in the Dane County Register of Deeds Office in Volume 89 of Certified Survey Maps, Page 121, as Document No. 5032555 in the City of Madison, Dane County, Wisconsin.

WHEREAS, the City's Parcels were created for the City of Madison Water Utility, with Outlot One (1) reserved for the reservoir and Outlot Two (2) created for access to the reservoir; and

WHEREAS, Certified Survey Map. No. 13607 also established certain easements for access and cross-access purposes over said Outlot Two (2) for the benefit of the Grantee's Parcel, and

WHEREAS, the parties desire to enter into this Access Easement Agreement to clarify the terms and conditions of said easements.



8 7 6 5 0 9 1
Tx:8601062

KRISTI CHLEBOWSKI DANE COUNTY REGISTER OF DEEDS

DOCUMENT #
5099105

09/19/2014 12:41 PM

Trans. Fee:

Exempt #:

Rec. Fee: 30.00

Pages: 5

RETURN TO: City of Madison
Economic Development Division
P.O. Box 2983
Madison, WI 53701-2983

Tax Parcel Nos.: 251-0810-352-0102-9
014-0810-352-9571-0

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt whereof is hereby acknowledged, the Grantee and the City agree as follows:

1. Grant of Easement. The City hereby grants and conveys to the Grantee, and the Grantee hereby accepts from the City, a non-exclusive easement for cross access and access purposes over, upon and across Outlot Two (2) of Certified Survey Map. No. 13607 (the "Easement Area"), as identified on attached Exhibit A.
2. Use of Easement Area.
 - a. The Grantee's use of the Easement Area shall be for private pedestrian and vehicular cross access between the northerly and southerly portions of the Grantee's Parcel, until such time that said portions are no longer under single ownership.
 - b. The Grantee's use of the Easement Area shall include private access to Felland Road specifically for the southerly portion of the Grantee's Parcel.
 - c. The Grantee agrees for itself and its agents to use the Easement Area in a manner fully complying with all laws and other legal requirements.
 - d. Neither the Grantee nor the City may unreasonably interfere with or impair the other party's rights hereunder, or (ii) erect or permit to be erected any sign, fence, wall, pole, post, structure, or other facility so as to prevent the free flow of traffic over and across the Easement Area.
 - e. The City has provided the Grantee a key to the existing gate at the eastern boundary of the Easement Area. In the event of a sale, new owners shall contact the City for a copy of the key.
 - f. The City shall relocate the existing gate to the western boundary of the Easement Area when the southerly portion of the Grantee's Parcel has approved access to a public street.
 - g. The City agrees to maintain the driveway over the Easement Area, including repairing and snow plowing.
 - h. The Grantee may not use the Easement Area for open storage or permanent parking of vehicles or equipment of any kind.
3. Reservation of Use. The City reserves the right to use and occupy the Easement Area in a manner consistent with the rights herein conveyed, provided that such use and occupancy shall not interfere with or disturb the Grantee's use of the Easement Area.
4. Limitation of Easement.
 - a. This Easement is intended for the sole use of the Grantee and the present and future owners, occupants, agents, tenants and invitees of the Grantee's Parcel in its entirety and is not intended, nor shall be construed, to create any rights in or for the benefit of the general public.

- b. The Grantee shall be responsible for any legal liability involving personal injury or property damage which is based upon or arises from the Grantee's negligent acts or omissions which may occur in connection with this Easement.
5. Notices. All notices to be given under the terms of this Easement shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below:

For the City: City of Madison Water Utility
 119 E Olin Avenue
 Madison, WI 53713

For the Grantee: Thomas and Diana Nelson
 4927 Felland Road
 Madison, WI 53718

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which notices shall be given.

6. Amendment. This Easement may not be amended, modified, terminated, or released without the written consent of all the parties hereto, or their respective successors-in-interest.
7. Binding Effect. The rights and easement granted herein shall be deemed to be covenants running with the land and shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, successors and assigns.
8. Applicable Law. This Easement shall be construed in accordance with the laws of the State of Wisconsin.
9. Severability. If any term or provision of this Easement is held to be invalid or unenforceable by a court of competent jurisdiction, then such holding shall not affect any of the remaining terms and provisions of this Easement and the same shall continue to be effective to the fullest extent permitted by law.
10. Joint and Several Liability: Forfeiture. The Grantee shall be jointly and severally liable for all terms and conditions of this Easement.
11. Public Record. This Easement is supplemental to the access and cross-access easements originally established in Certified Survey Map No. 13607 and will be recorded at the office of the Dane County Register of Deeds.

(Signature page to follow)

Dated this 16th day of September, 2014.

CITY OF MADISON, a Wisconsin municipal corporation

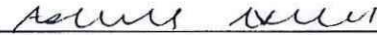
By: 
Paul R. Soglin, Mayor

By:  for
Maribeth Witzel-Behl, City Clerk

State of Wisconsin)
)ss.
County of Dane)

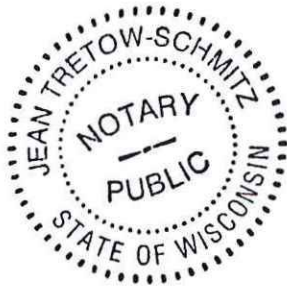
Personally came before me this 16th day of September, 2014, the above named Paul R. Soglin, Mayor of the City of Madison, and acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

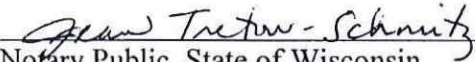



Notary Public, State of Wisconsin
Ashleigh Hacker
Print or Type Name
My Commission: exp 5/8/18

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 15th day of September, 2014, the above named Maribeth Witzel-Behl, City Clerk of the City of Madison, and acting in said capacity and known to me to be the person who executed the foregoing instrument and acknowledged the same.

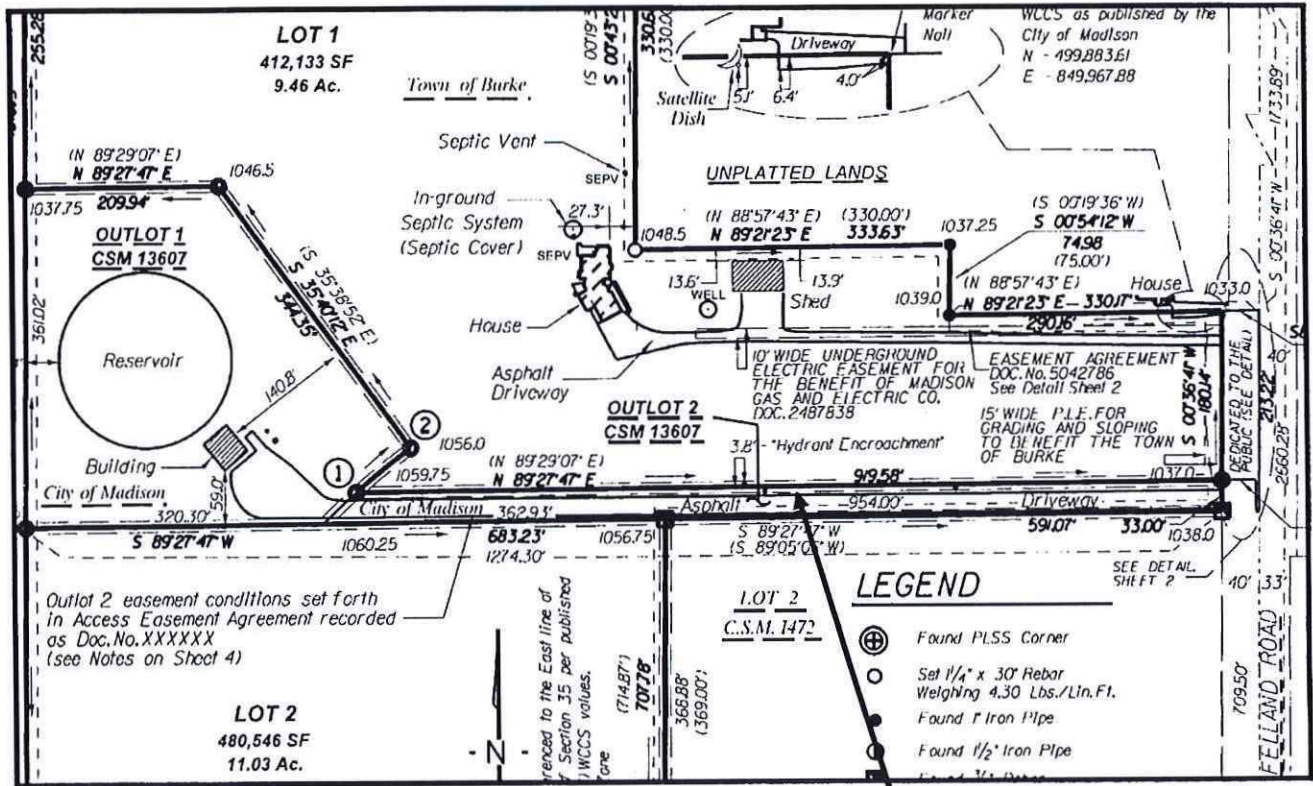



Notary Public, State of Wisconsin
Jean Tretow-Schmitz
Print or Type Name
My Commission: 10-2-2016

This document is authorized by Resolution Enactment No. RES-13-00798, File ID No. 31701, adopted by the Common Council of the City of Madison on October 15, 2013.

Drafted by the City of Madison Office of Real Estate Services Real Estate Project No. 10381

EXHIBIT A
Easement Area



NOT TO SCALE

**EASEMENT AREA
OVER OUTLOT 2**