



Dane County Planning & Development

Division of Zoning

Appeal No. 3667
 Date Received 2/24/15
 Date of Public Hearing 3/26/15

VARIANCE APPLICATION:

Owner: Wisconsin Department of Natural Resources
Mailing Address: c/o Andy Paulios, 3911 Fish Hatchery Road, Fitchburg, WI 53711-5367

Phone Number(s): 608/534-0092
Email Address: andy.paulios@wisconsin.gov

Assigned Agent: Jim Welsh
Mailing Address: Natural Heritage Land Trust, 303 S. Paterson Street, #6, Madison, WI 53703

Phone Number(s): 608/258-9797
Email Address: jim@nhlt.org

To the Dane County Board of Adjustment:
Please take notice that the undersigned was refused a permit by the Dane County Zoning Division, Department of Planning and Development, for lands described below for the reason that the application failed to comply with provisions of the Dane County Code of Ordinances: Chapters 10 – Zoning, 11 – Shoreland, Shoreland-Wetland & Inland-Wetland, 17 – Floodplain Zoning, and/or 76 – Airport Height Regulations. The owner or assigned agent herewith appeals said refusal and seeks a variance.

Parcel Number: 0911-334-9510-1 Zoning District: A-1 Acreage: 53.9
 Town: Bristol Section: 33 1/4 SE 1/4
 Property Address: none
 CSM: _____ Lot: _____ / Subdivision: _____ Block/Lot(s): _____
 Shoreland: Y/N / Floodplain: Y/N / Wetland: Y/N / Water Body _____
 Sanitary Service: Public / Private (Septic System)

Current Use: Please see attached.

Proposal: Please see attached.

NOTE: You are encouraged to provide a complete and detailed description of the existing use and your proposed project on an attached sheet.

REQUIRED BY ORDINANCE

Section	Description	Required	Proposed or Actual	Variance Needed
(2)(c)4	Floor area of minor structures within the shoreline set back area	not more than 200 sq.ft.	320 sq.ft	Additional floor area
11.03(2)(a)(1)	Setback from OHWM	75	37	38

H-T-A

PRESENTING YOUR CASE TO THE BOARD OF ADJUSTMENT:

An Area Variance may be authorized by the Dane County Board of Adjustment to vary one or more of the dimensional or physical requirements of the applicable ordinance in connection with some proposed construction.

The burden will be on you, as property owner or authorized agent, to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of the hearing, including the staff report. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and may then deny your application.

Please answer the four questions below. You are encouraged to attach a separate sheet, labeling the answers (1) through (4), to provide enough detail to support your appeal:

(1) Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered in each category below:

(A) Alternatives you considered that comply with existing standards: If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

The wildlife viewing platform, at ~320 sq.ft., could be made smaller so that its surface area would be less than the allowed 200 sq.ft. However, one goal of the wildlife viewing platform is to allow an entire class of students at the nearby Patrick Marsh Middle School the opportunity for an unobstructed, front-row view of Patrick Marsh when the class visits the marsh. This would be difficult to accomplish on a structure not exceeding 200 sq.ft.

(B) Alternatives you considered that require a lesser variance: If you reject such alternatives, provide the reasons you rejected them.

We could build a wildlife viewing platform of less than 320 sq. ft. but doing so would diminish the usefulness of the platform for school classes and other large groups.

(2) Will there be an unnecessary hardship to the property owner to strictly comply with the ordinance?

Unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home or claiming that they need more outbuilding space than that permitted to store personal belongings). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

Strict compliance with the ordinance would require us to either reduce the size of the wildlife viewing platform or move it out of the setback area.

Either alternative would diminish the intended educational experience. Reducing the size of the platform would eliminate front-row views.

Moving the platform out of the setback area would increase the distance to the marsh, making it harder to view wildlife on the marsh.

- (3) Do unique physical characteristics of your property prevent compliance with the ordinance? If yes, please explain. **The required Site Plan and/or Survey submitted with your application must show these features.**

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with the ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide a basis for granting a variance.

To the extent that the wildlife viewing platform is more useful the closer it is to the marsh, the terrain creates a good opportunity for the platform to be positioned just beyond the 35' setback from the ordinary high water mark, taking advantage of a small bluff above the shore of the marsh.

- (4) What would be the effect on this property, the community or neighborhood, and the general public interest if the variance were granted? Describe how negative impacts would be mitigated. **The required Site Plan and/or Survey submitted with your application must show any proposed mitigation features.**

These interests may be listed as objectives in the purpose statement of an ordinance and may include: Promoting and maintaining public health, safety and welfare; protecting fish and wildlife habitat; maintaining scenic beauty; minimizing property damages; ensuring provision of efficient public facilities and utilities; requiring eventual compliance for nonconforming uses, structures and lots; drainage; visual impact; fire safety and building code requirements; and any other public interest issues.

Groups, such as classes from the nearby Patrick Marsh Middle School, would benefit from the opportunity to use the wildlife viewing platform as an overlook for the marsh and in such a way that each student would have an unobstructed view of the marsh; the better the view, the better the educational experience.

REQUIRED PLANS AND SPECIFICATIONS:

In addition to providing the information required above, you must submit:

1. **Site Plan:** Complete and detailed plans of your lot or lots, drawn to a standard and easily readable scale. **In most cases, a survey by a Registered Land Surveyor is needed.** The Site Plan/Survey should include the following, as applicable, as well as any unique existing features of the lot and any proposed mitigation features, as described above:
 - Scale and North arrow
 - Road names and right-of-way widths
 - All lot dimensions
 - Existing buildings, wells, septic systems and physical features such as driveways, utility easements, sewer mains and the like, including neighboring properties and structures.
 - Proposed new construction, additions or structural alterations.
 - For property near lakes, rivers or streams:
 - Location of Ordinary High Water Mark (OHWM) Elevation
 - Location of Floodplain Elevation
 - For property near Wetlands, a Wetland Boundary determination by a qualified professional consultant may be required.
 - Topographic survey information may be desirable or necessary.
 - Setbacks from any existing or proposed structures (building) to lot lines, right-of-way lines, Ordinary High Water Mark, and/or Wetland Boundary, as applicable.
 - For setback from Ordinary High Water Mark Variance Appeals, the setbacks of the two neighboring structures from the OHWM may be required.

2. Floor Plans and Elevations: Professionally-prepared plans and elevations are not required, but the plans submitted must be drawn to a standard and easily readable scale, must show each story of the building or structure, and must include all parts of existing and proposed structures, including any balconies, porches, decks, stoops, fireplaces and chimneys. Exterior dimensions must be included. Show all exit door locations, including sliding doors, and any windows or other features that are pertinent to your appeal. The plans may be a preliminary version, but are expected to represent your actual proposal for the use of your lot.

Please consult with the Assistant Zoning Administrator regarding required plans for non-conventional structures such as signs, construction cranes, etc.

3. Town Acknowledgment: Obtain a signed, dated memo or letter from the Town Clerk or Administrator of the Town where the variance is needed, acknowledging that you have informed them of your intention to apply for the variance(s). You probably will need to appear before the Town Board and/or Plan Commission, which will provide advisory input requested by the Board of Adjustment.

APPLICANT SIGNATURE:

The undersigned hereby attests that all information provided is true and accurate, and further gives permission to Planning & Development staff and Board of Adjustment members to view the premises, in relation to the Appeal request made herein, during reasonable daylight hours.

Signature Required: Jim Welsh Date: 2/24/2015

Print Name: Jim Welsh

Specify Owner or Agent: Agent
Agent must provide written permission from the property owner — attached.

STAFF INFORMATION:

Date Zoning Division Refused Permit (if different from filing date)

Filing Date

Filing Materials Required:

Site Plan

Floor Plans

Elevations

Fee _____ Receipt No. _____

Town Acknowledgement Date

Notices Mailed Date

Class II Notices Published Dates

Site Visit Date

Town Action Received Date:

Public Hearing Date

Action by B.O.A. _____

Approved by: _____ **Date:** _____
Director, Division of Planning Operations, Department of Planning and Development

Variance Application

Submitted by Jim Welsh, Natural Heritage Land Trust

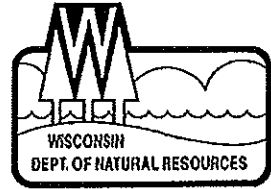
Current Use: The parcel is part of a 320 acre conservation landscape at Patrick Marsh Wildlife Area on the east side of the City of Sun Prairie, owned by Wisconsin DNR, Dane County, and Natural Heritage Land Trust. The parcel where we seek the variance is owned by the DNR. This 53.9 acre parcel is located on the west side of Patrick Marsh and is managed as a state wildlife area, providing wildlife habitat and opportunities for nature-based outdoor recreation activities by the public. A trail runs north-south through the parcel, originating at a parking area located off of Stone Quarry Road. A kiosk with information about Patrick Marsh is located at the parking area.

Proposed Use: The property would continue to be used as currently used, except that we propose to build a wildlife viewing platform to provide the public with a good vantage point for viewing Patrick Marsh. The proposed platform would be set back from the ordinary high-water mark of Patrick Marsh at least 35', per the county's shoreland zoning ordinance. However, the proposed platform exceeds the 200 sq.ft. floor area limitation for "minor structures". The proposed wildlife viewing platform as currently designed would be ~320 sq.ft in floor area. In addition, two segments of trail would be constructed, linking the platform with the existing trail from the parking lot at the north end of Patrick Marsh (one segment of trail would be ~50' and the other would be ~100'). The existing trail from the parking lot would be re-graded and the longer of the two new trail segments would be graded to meet accessibility standards. Four new interpretive signs would be erected near the wildlife viewing platform and along the trail; the signs would be written and designed by students from the nearby Patrick Marsh Middle School.

Z:\Stewardship\Projects\Patrick Marsh\wildlife viewing platform\Board of Adjustment Variance\Variance Application Use attachment.docx

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



February 5, 2015

Jim Welsh
303 S. Paterson St. Suite #3
Madison WI 53703

Subject: Patrick Marsh Overlook Project

Dear Jim:

Thank you for your efforts to coordinate the construction of the marsh overlook at the Patrick Marsh property in Sun Prairie. This letter hereby signifies that the Wisconsin Department of Natural Resources is aware of the project and fully endorses the effort to obtain a variance from the Dane County zoning authority. Any questions of the DNR can be directed to Andy Paulios, property manager for Wisconsin DNR, at 608-275-3250 or Andy.Paulios@wisconsin.gov.

Sincerely,

A handwritten signature in black ink, appearing to be 'A Paulios'.

Andy Paulios
Wildlife Biologist
Wisconsin DNR



Town of Bristol

7747 County Road N
Sun Prairie WI 53590

608-837-6494 phone, 608-834-6494 fax

February 12, 2015

Dane County Planning and Development
City County Building, Room 116
Madison WI 53703

RE: Variance for Proposed Wildlife Viewing Platform at Patrick Marsh

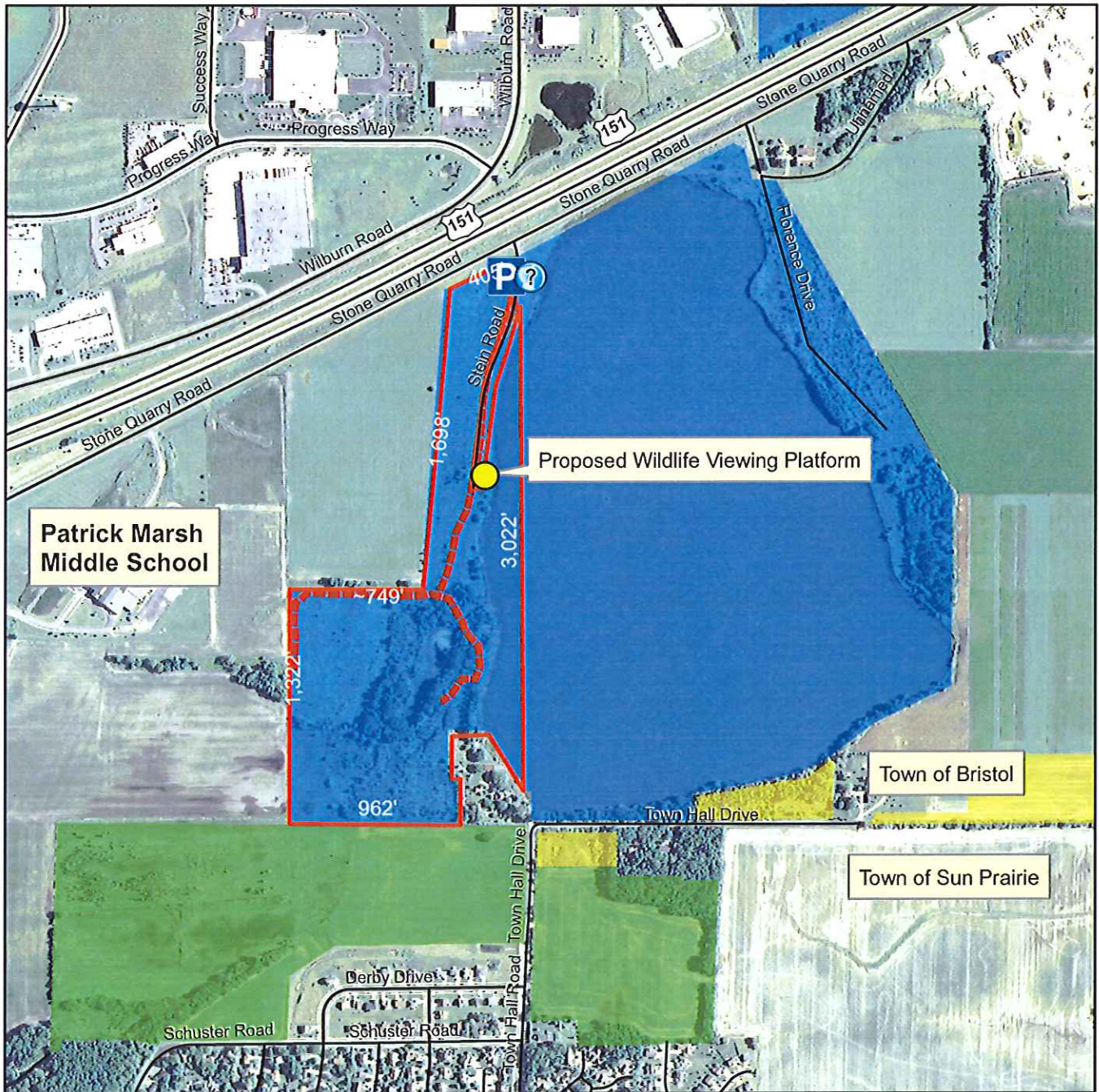
Jim Welsh of the National Heritage Land Trust discussed plans for the wildlife viewing platform at Patrick Marsh at the Town Board meeting on Monday, February 9, 2015. The Town Board supports this project and is aware that a variance will be required due to the size of the platform. It has no objection.

Please let me know if you need anything further from the Town.

Sincerely,

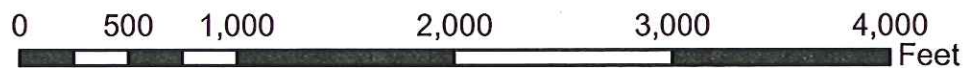
A handwritten signature in black ink, appearing to read "Sandra Klister".

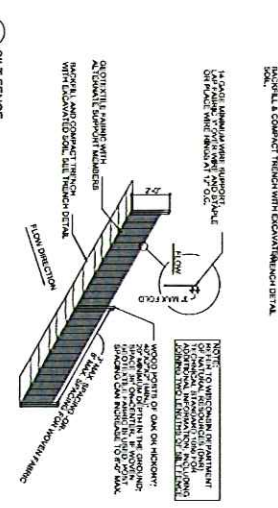
Sandra Klister
Bristol Town Clerk



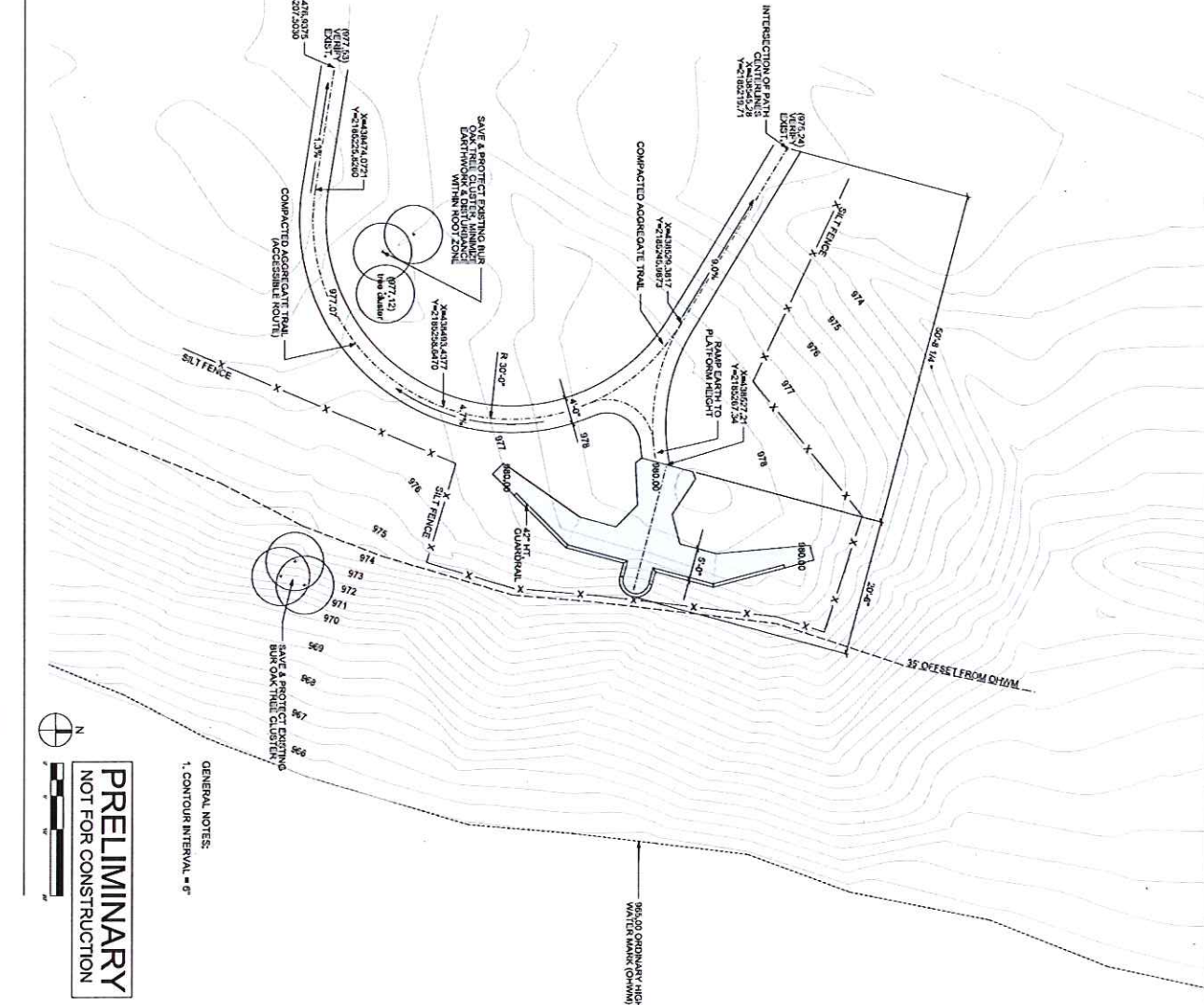
Site Plan, Overview

- Parcel 091133495101
- Road Centerlines
- State Property
- County Property
- NHLT Property
- Existing Foot Trails





1 SITE PLAN



1 SITE PLAN

PRELIMINARY
NOT FOR CONSTRUCTION

GENERAL NOTES:
1. CONTOUR INTERVAL = 5'

PATRICK MARSH OVERLOOK

Sun Prairie, WI



NO.	DATE	DESCRIPTION

Client No.	
Project No.	
Drawn By	
Checked By	
Date	

Scale: 1" = 40'

L-1