



Board of Appeals

335 South Broadway
De Pere, WI 54115
<http://www.de-pere.org>

Regular Meeting

Agenda

Monday, July 22, 2019

4:45 PM

De Pere City Hall Council Chambers

Pursuant to Wisconsin Statutes 19.84, Notice is hereby given to the public that a meeting of the **Board of Appeals** of the City of De Pere will be held on **July 22, 2019** at **4:45 PM** in the **De Pere City Hall Council Chambers, 335 S. Broadway Street, De Pere, WI 54115.**

This meeting can be viewed LIVE at www.depere.tv. This meeting is also rebroadcast on Spectrum Cable Channel 4 and AT&T U-verse Channel 99 throughout the week and available on demand at www.depere.tv.

Call to Order

1. Roll Call
2. Approval of the minutes of the June 24, 2019 Board of Appeals meeting.
3. Staff recommendation and possible action regarding a variance request for a new building to encroach 14 feet into the Municipal Code 14-40 (8)(2)(c) required 50 foot rear yard setback, thereby allowing for the rear yard setback to be reduced to 36 feet on multi-family property and single family property (proposed to be rezoned with a conditional use for a dental office) located at 221-233 S. Erie Street (Parcels ED-1112, ED-1113, ED-1114). Submitted by Katie Nemitz, Design Unlimited, authorized representative for HNM LLC, property owner.

Adjournment

Any person wishing to attend this meeting, who, because of disability, requires special accommodations should contact the City Planner's office at 339-4043 by noon on the day of the meeting so that arrangements can be made.

*Items with an asterisk require City Council approval.

Agenda Sent To:

Alderspersons
City Administrator
Mayor
Department Heads
TV, Newspapers & Radio Stations
Kress Family Library
De Pere Chamber of Commerce
HNM LLC
Katie Nemitz, Design Unlimited
David A & Kotanee T Burt
Noah V Wentland
Eric J & Amanda J Dombrowski
Katelyn Secora
David L Flora
Dennis R Hendricks
James J & Carol B Hendricks
Eric J & Tandra S Fuiten

Robert P Olmsted
Kathryn L Carter
Matthew A & Ruthanne C Rohloff
John J Van Gheem
Lisa A Cherney



City of De Pere, Wisconsin

Request For Board of Appeals Action

MEETING DATE: July 22, 2019

DEPARTMENT: Board of Appeals

FROM: Kelly Barker

SUBJECT: Approval of the minutes of the June 24, 2019 Board of Appeals meeting.

ATTACHMENTS:

- BoA_Jun2019_Minutes_Draft (PDF)



Board of Appeals

Regular Meeting

Draft Minutes

335 South Broadway
De Pere, WI 54115
<http://www.de-pere.org>

Monday, June 24, 2019

4:45 PM

De Pere City Hall Council Chambers

Call to Order

The meeting was called to order at 4:45 PM by Chairman Bob De Groot

Attendee Name	Title	Status	Arrived
Scott Bonfigt	Board Member	Present	
Bob De Groot	Chairman	Present	
Paul De Leeuw	Board Member	Excused	
James Stadler	Board Member	Present	
William Vande Hei	Board Member	Present	
Andy Van Remortel	Board Member	Present	
Michelle Manke	Board Member	Present	

Also present: City Planner Peter Schlein, City Attorney Judy Schmidt-Lehman, and members of the public.

- Approval of the minutes of the April 22, 2019 Board of Appeals meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Stadler, Board Member
SECONDER:	William Vande Hei, Board Member
AYES:	Bonfigt, De Groot, Manke, Stadler, Vande Hei, Remortel
EXCUSED:	Paul De Leeuw

- Staff recommendation and possible action regarding a variance request for a new building to encroach 14 feet into the Municipal Code 14-40 (8)(2)(c) required 50 foot rear yard setback, thereby allowing for the rear yard setback to be reduced to 36 feet on multi-family property and single family property (proposed to be rezoned with a conditional use for a dental office) located at 221-233 S. Erie Street (Parcels ED-1112, ED-1113, ED-1114). Submitted by Katie Nemitz, Design Unlimited, authorized representative for HNM LLC, property owner.

Bob De Groot read the notice of public hearing and City Planner Peter Schlein reviewed the variance request. Peter explained the background of the project, which includes several different reviews. The rezoning, conditional use, and site plan will all be reviewed later tonight at the Plan Commission meeting. The Common Council will also have final review of the rezoning and conditional use. The variance is necessary because the new dental office is proposed to encroach 14 feet into the required 50 foot rear yard setback. Peter identified the five criteria to use when evaluating a variance request. They are:

- Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.
- The conditions upon which a petition for a variance are based are unique to the property for which the variance is sought and are not applicable, generally, to other property within the same zoning classification.
- The alleged difficulty or hardship is caused by this ordinance and has not been created by any person having an interest in the property.

Attachment: BoA_Jun2019_Minutes_Draft (8545 : Approval of the minutes of the June 24, 2019 Board of Appeals meeting.)

d.) The granting of the variance will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.

e.) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

For variance requests, staff does not provide a recommendation or denial. Peter noted that the petitioner is in the audience, as well as residents. The City Attorney was also present. Bob De Groot invited the applicant to come forward to address the board. Chris Halwig, the architect for Design Unlimited, spoke. He note that a 6 foot vinyl fence is proposed along the north side of the property for better screening of the dental office. Scott Bonfigt asked how the design would change if the 50 foot setback was enforced. Chris stated that the single story building is what his client desires, which would require the setback reduction. Scott then asked what the normal setback for a residential house is and City Planner Peter Schleinze stated that for a single or two family home it is 30 feet. Bob De Groot asked if anyone wished to speak for or against the variance. Elaine Flora, on behalf of herself and her husband Dave, stated her opposition to the expansion. Scott Bonfigt asked her what her main concern was and she stated that she is opposed to the entire project and this is one step in the process of the expansion getting approved. Main points of concern included increased traffic, the size of the building, and possible decrease in property values of the surrounding neighborhood. The next person to speak was Lisa Cherney, the property owner directly to the north. She also spoke against the project. Jack Pasterski, a former resident of the house at 221 S Erie Street, also spoke against the project. Finally, Dr. Gary Noble, senior partner and owner of MAC Dental addressed the board. He noted that his business has grown over the past few years and a bigger facility is needed. He explained that he hired Design Unlimited due to their expertise with designing dental offices. The goal was to design a building that looked similar to a house so it fit in the neighborhood better. He added that the existing building has been around for 46 years without any changes being made. Scott Bonfigt asked what the business would do if the project was not approved. Dr. Noble stated that ideally, he would like to stay at this site and expand. Secondly, he would like to stay in East De Pere; however it has been difficult to find another suitable site in the area. The third option would be to relocate to Allouez or another surrounding area. After some discussion the board members decided that they should not make a decision on the variance until after the Plan Commission acts on the rezoning request. Bob De Groot moved, seconded by Bill Vande Hei, to table the vote until the next Board of Appeals meeting. The applicant was in agreement with this decision. Upon vote, motion carried unanimously.

RESULT:	TABLED [UNANIMOUS]
	Next: 7/22/2019 4:45 PM
MOVER:	Bob De Groot, Chairman
SECONDER:	William Vande Hei, Board Member
AYES:	Bonfigt, De Groot, Manke, Stadler, Vande Hei, Remortel
EXCUSED:	Paul De Leeuw

Adjournment

Bob De Groot moved, seconded by Andy Van Remortel, to adjourn the meeting at 5:57 pm. Upon vote, motion carried unanimously.

Respectfully submitted,
Kelly Barker



City of De Pere, Wisconsin

Request For Board of Appeals Action

MEETING DATE: July 22, 2019

DEPARTMENT: Planning

FROM: Peter Schlein

SUBJECT: Staff recommendation and possible action regarding a variance request for a new building to encroach 14 feet into the Municipal Code 14-40 (8)(2)(c) required 50 foot rear yard setback, thereby allowing for the rear yard setback to be reduced to 36 feet on multi-family property and single family property (proposed to be rezoned with a conditional use for a dental office) located at 221-233 S. Erie Street (Parcels ED-1112, ED-1113, ED-1114). Submitted by Katie Nemitz, Design Unlimited, authorized representative for HNM LLC, property owner.

On June 24, 2019 the Board of Appeals and the property owner agreed to table the review until the next meeting in order to allow an opportunity for the Plan Commission to act on the rezoning of the property to R-3 (Multiple Family Residence District) prior to the Board of Appeals considering the variance.

ATTACHMENTS:

- Memo to Board of Appeals - 22 Jul 2019 (DOCX)
- BoA_Jun2019_Public Hearing Notice (DOCX)
- Report to Board of Appeals - New building with a 36 foot rear yard setback - 221-233 S. Erie St (DOCX)
- Application Form and Permit Request Denial (PDF)
- 2nd Neighborhood letter from MAC Dental - 20 May 2019 (PDF)
- Adjacent Owner - Referred to Staff - PC Letter - 05 Jun 2019 (PDF)
- Neighbor Email - objection to project - 28 May 2019 (MSG)
- Neighbor Email - objection to project and rezoning - 07 Jun 2019 (MSG)
- Neighbor Email Letter - objection to project - 12 Jun 2019 (RTF)

CITY OF DE PERE MEMO



To: Board of Appeals
From: Peter Schleinz, Senior Planner | Zoning Administrator
Date: July 22, 2019

RE: **MAC Dental Agenda Item Referred to July 22, 2019 Board of Appeals Meeting
(Setback Variance at 221-233 S. Erie Street)**

During the June 24, 2019 Board of Appeals meeting the Board and the property owner agreed to table the review of a setback variance, related to MAC Dental at 221-233 S. Erie Street, until the July 22, 2019 Board of Appeals meeting. The tabling occurred in order to allow an opportunity for the Plan Commission to consider rezoning the property to R-3 (Multiple Family Residence District) prior to the Board of Appeals considering a variance for the property.

- Residents attended the June Board of Appeals meeting and four spoke against the request during the public hearing.
- Because the rezoning of Parcel ED-1114 was not approved by Common Council on July 16, 2019 the Board of Appeals lost jurisdiction and will not be able to approve the variance as submitted.

During a July 9, 2019 telephone conversation between the project authorized representative and the City Zoning Administrator, the need for the property owner proving “unnecessary hardship” was discussed. A copy of a document that describes Wisconsin Statutes 66.23(7)(e)(7) was shared with the authorized representative. A copy of the document is attached to this memo.

Following the Board of Appeals variance review, the Plan Commission is scheduled to review a related site plan on July 22, 2019 at 7:00pm.


Attachments

Zoning Variances under Wis. Stats. §66.23(7)(e)7.

a. In this subdivision, “area variance” means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subdivision, “use variance” means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

b. The board of appeals shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance 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.

c. The board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, 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.

 **d.** A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

e. The council of a city may enact an ordinance specifying an expiration date for a variance granted under this subdivision if that date relates to a specific date by which the action authorized by the variance must be commenced or completed. If no such ordinance is in effect at the time a variance is granted, or if the board of appeals does not specify an expiration date for the variance, a variance granted under this subdivision does not expire unless, at the time it is granted, the board of appeals specifies in the variance a specific date by which the action authorized by the variance must be commenced or completed. An ordinance enacted after April 5, 2012, may not specify an expiration date for a variance that was granted before April 5, 2012.

f. A variance granted under this subdivision runs with the land.

Publish: June 14, 2019

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that a public hearing will be held before the Zoning Board of Appeals of the City of De Pere, Brown County, Wisconsin, on June 24, 2019 at 4:45 PM in the Common Council Chambers, Second Floor, City Hall, 335 S. Broadway Street, De Pere, Wisconsin, on the following matter:

1. An appeal for a variance from the City of De Pere Municipal Code, Chapter 14-40 (8)(2)(c), submitted by Katie Nemitz, Design Unlimited, 1029 W McMillian St, Marshfield, Wisconsin. Said appeal requests a building permit to allow for the development of a new dental office building on the property located at 221-233 S Erie Street, De Pere, Wisconsin, which would require a 14 foot reduction to a proposed rear yard setback, changing the 50 foot setback to be a 36 foot setback.

Application for a building permit was denied pursuant to the De Pere Municipal Code, Chapter 14-40 (8)(2)(c), which requires a minimum 50 foot rear yard setback.

Dated this 14th day of June, 2019

BY ORDER OF THE BOARD OF APPEALS

Peter Schlein, Zoning Administrator

Item 3: Staff recommendation and possible action regarding a variance request for a new building to encroach 14 feet into the Municipal Code 14-40 (8)(2)(c) required 50 foot rear yard setback, thereby allowing for the rear yard setback to be reduced to 36 feet on multi-family property and single family property (proposed to be rezoned with a conditional use for a dental office) located at 221-233 S. Erie Street (Parcels ED-1112, ED-1113, ED-1114). Submitted by Katie Nemitz, Design Unlimited, authorized representative for HNM LLC, property owner.

SITE MAP



REQUESTED ACTION: Variance Request.

A proposed reduction in rear yard setback (north end of site) from 50 feet to 36 feet to allow for the development of a new dental office building.

COMMON DESCRIPTION: 221-233 S. Erie Street, located northeast from the Lewis Street and S. Erie Street intersection.

PARCEL NUMBERS: Parcels ED-1112, ED-1113, ED-1114

Attachment: Report to Board of Appeals - New building with a 36 foot rear yard setback - 221-233 S. Erie St (8541 : Staff recommendation and

EXISTING ZONING:	<p>Parcels ED-1112 & ED-1113 – R-3 (multiple Family Residence District) with an existing conditional use for a dental office.</p> <p>Parcel ED-1114– R-2 (Single and Two-Family Residence District)</p> <p><i>Note: Parcel ED-1114 is proposed to be reviewed on June 24, 2019 by Plan Commission, and on July 16, 2019 by Common Council, for both a rezoning to R-3 and a conditional use to allow for medical and health institutions (a dental office). This staff report is written utilizing the R-3 requirements, acknowledging that that variance is only applicable if all the other approvals are secured, including the rezoning of ED-1114.</i></p>										
SURROUNDING LAND USES:	Single family residential to the north, south, east, and west.										
COMPREHENSIVE PLAN:	Neighborhood Residential (Including Multi-Family)										
APPLICANT / OWNER:	<table border="0"> <tr> <td>Katie Nemitz, Project Manager</td> <td>HNM LLC</td> </tr> <tr> <td>Design Unlimited</td> <td>Property Owner</td> </tr> <tr> <td>Authorized Representative</td> <td>704 S. Webster Avenue</td> </tr> <tr> <td>1029 West McMillan Street</td> <td>Green Bay, WI 54301-3528</td> </tr> <tr> <td>Marshfield, WI 54449</td> <td></td> </tr> </table>	Katie Nemitz, Project Manager	HNM LLC	Design Unlimited	Property Owner	Authorized Representative	704 S. Webster Avenue	1029 West McMillan Street	Green Bay, WI 54301-3528	Marshfield, WI 54449	
Katie Nemitz, Project Manager	HNM LLC										
Design Unlimited	Property Owner										
Authorized Representative	704 S. Webster Avenue										
1029 West McMillan Street	Green Bay, WI 54301-3528										
Marshfield, WI 54449											
PROJECT REVIEWS:	<p>This petition relates to other requests for a proposed dental office reconstruction. Reviews required to facilitate the project include:</p> <p>Plan Commission & Common Council Reviews--</p> <ul style="list-style-type: none"> • Rezone 221 S. Erie Street from R-2 to R-3. <ul style="list-style-type: none"> ○ Health and medical institutions (dental offices) may be approved by conditional use on R-3 zoned properties. ○ Adjacent properties to the south are already zoned R-3. • Conditional Use for 221 S. Erie Street to allow for a health and medical institution (dental office) <ul style="list-style-type: none"> ○ The two properties to the south already have a conditional use for a dental office. <p>Plan Commission Only Review--</p> <ul style="list-style-type: none"> • Site Plan for 221-233 S. Erie Street in order to develop a new dental office and parking lot. <p>Board of Appeals Review—</p> <ul style="list-style-type: none"> • Variance for 221-233 S. S. Erie Street in order to address a lot line building setback between 221 & 215 South Erie Street being 36 feet. <p>Staff Only Review—</p> <ul style="list-style-type: none"> • Parcel Combination for 221-223 S. Erie Street <ul style="list-style-type: none"> ○ Completed by either De Pere or Brown County staff to prevent lot lines from dividing structure. 										
SITE HISTORY:	<p><u><i>221 S. Erie (ED-1114) Property History</i></u></p> <p>After a review of air photographs, the property and nearby area began developing prior to 1938. The primary use for parcel ED-1114 has been single-family residential. Aside from housing code violations being addressed in 2018,</p>										

the City files have no further record regarding the specific property.

233 S. Erie (ED-1112 & ED-1113) Property History

Development of these properties into the current dental office facility began in 1973. At that time, the properties were zoned "C" Residential, a district that permitted a variety of land uses.

In 1973, a conditional use was approved by Plan Commission and Common Council to allow for dental offices. Also, in 1973 the Board of Appeals approved setback and parking variances for the two properties. At this time the property was identified as being owned by a Mr. Donald A. Haupt.

In 1974, via a zoning rewrite, the Common Council approved that the "C" Residential District become the R-3 District (General Residence District) and the R-4 District (General Residence Office District).

STAFF REVIEW:

Note: The petitioner must successfully obtain all necessary approvals referenced in the "Project Reviews" section of this report in order for any variance approval to be utilized. Board of Appeals decisions do not guarantee any decisions for other petitions related to this project.

The petitioner proposes the following at 221-233 S. Erie Street:

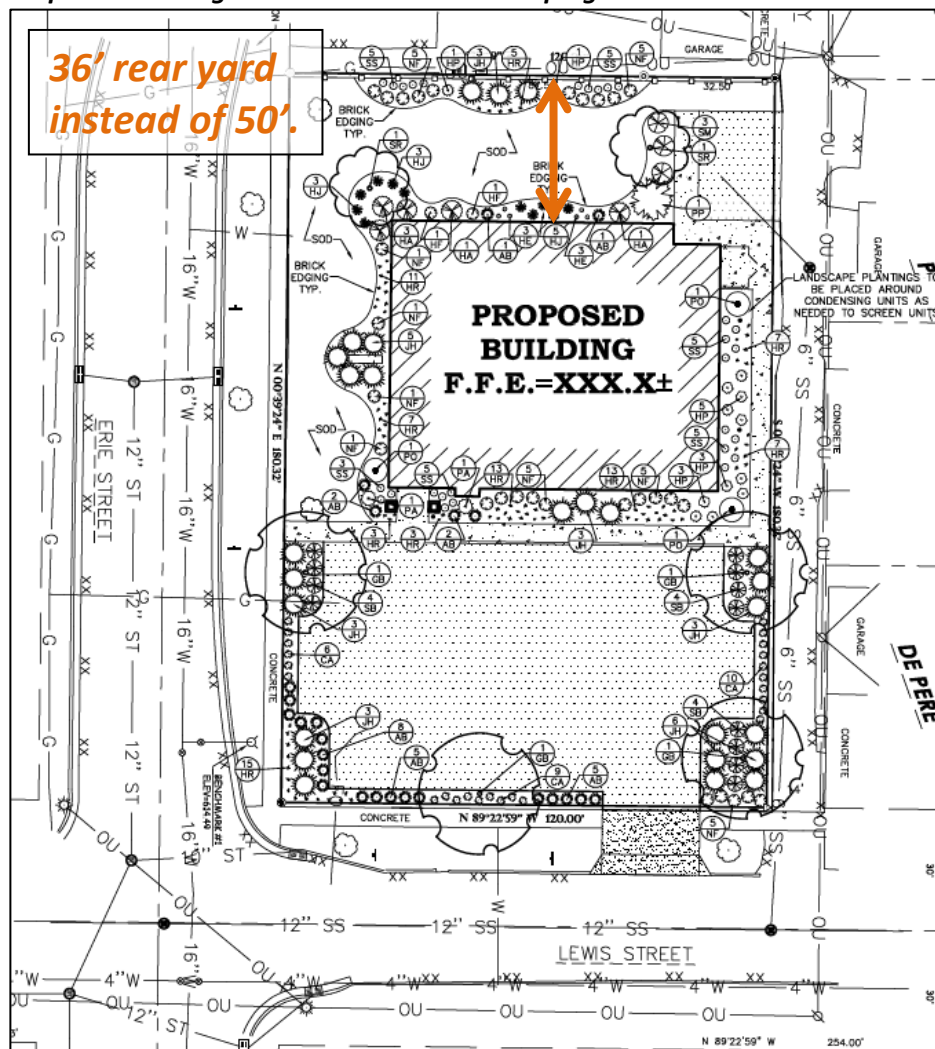
- The development of a new 5,310 sq. ft. dental office at the northern end of the site where an existing, vacant house and a parking lot exist.
 - The building has the appearance of a two story structure and utilizes residential façade materials, including a stone knee wall with cement board siding.
- A new 17 stall parking lot for the building is proposed where the existing dental office sits at the corner of S. Erie Street and Lewis Street. A separate 3 stall staff-only parking area will be located on the east side of the new building with access via an alley.
- A fence is proposed along the northern end of the proposed site.
- Extensive landscaping is proposed on the site and around the proposed new parking lot.

The rear setback for a proposed site plan does not comply with the following lot requirements established by R-3 zoning, if a rezoning and a conditional use was obtained for a health and medical institution (a dental office) on the site, per Section 14-40(8)(2)(c), which requires a 50 foot rear setback on the north end of the site.

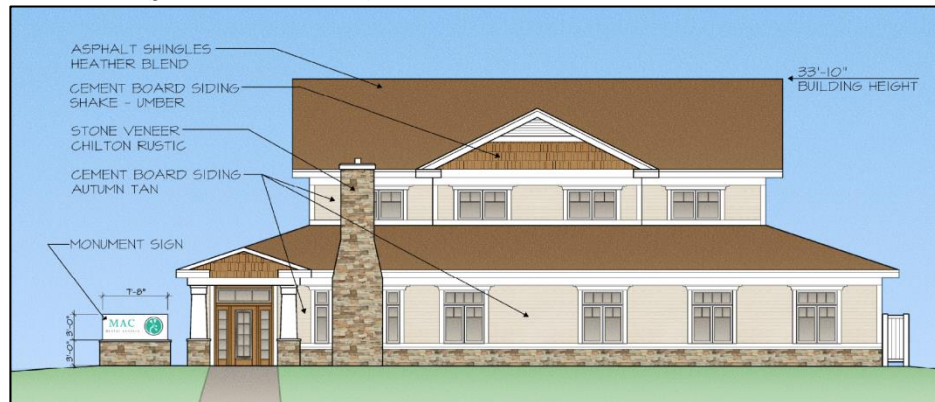
- The proposed distance between the proposed new building and the rear (northernmost) property line is 36 feet.

City staff denied the request, being aware that the entire site could potentially be zoned R-3 with a conditional use for health and medical institutions (a dental office), because the setback must be at least 50 feet from the rear (northernmost) property line ,per Municipal Code 14-40 (8)(2)(c).

Proposed building rear setback with landscaping shown.

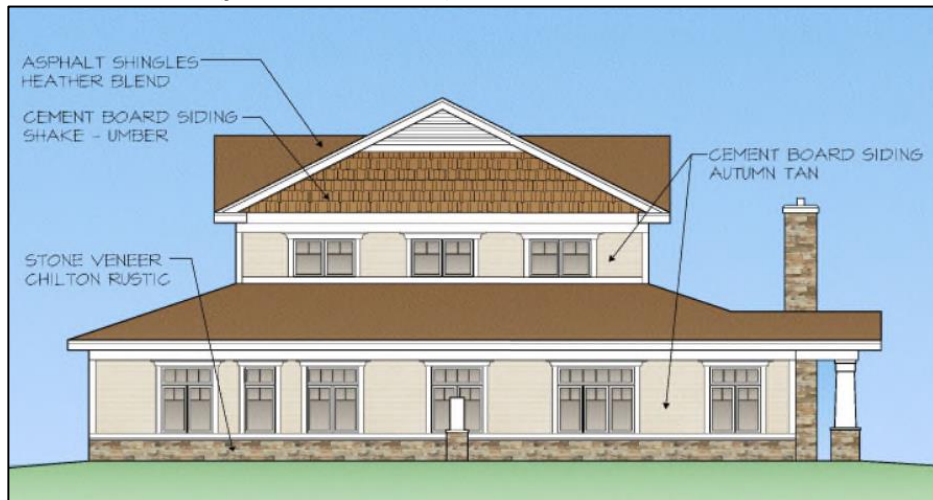


Front View (from Lewis Street).

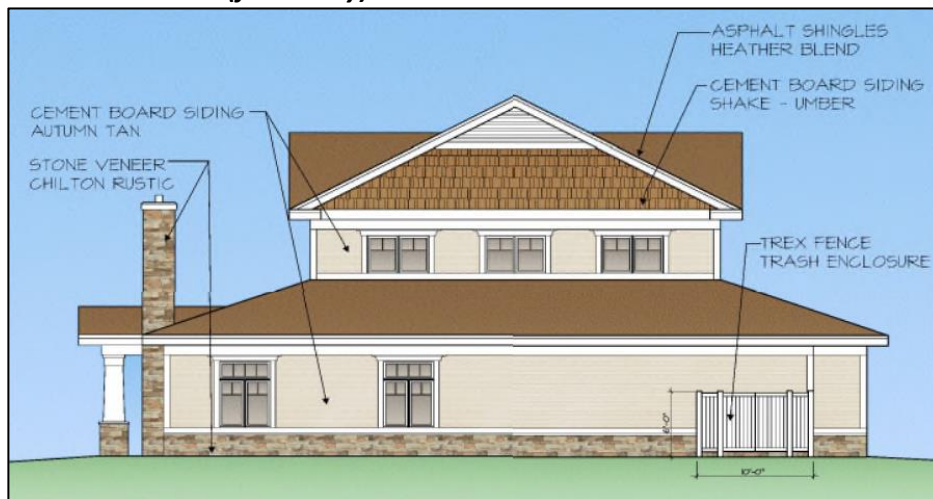


Attachment: Report to Board of Appeals - New building with a 36 foot rear yard setback - 221-233 S. Erie St (8541 : Staff recommendation and

Corner Side View (from S. Erie Street).



Interior Side View (from alley).



Rear View (adjacent to 215 S. Erie Street).



Attachment: Report to Board of Appeals - New building with a 36 foot rear yard setback - 221-233 S. Erie St (8541) : Staff recommendation and


REVIEW PROCESS:

For variance applications, the Board of Appeals holds a public hearing, reviews the petition, and then makes a final decision of approval or denial within 30 days of the date the petition was filed. If the Board of Appeals decision is approval, the petitioner must obtain proper permits and begin the project within six months of the approval. One variance appeal per year may be petitioned.

**STAFF RECOMMENDED
CONDITIONS**

If the variance is to be approved, staff recommends that the following conditions of approval be included:

1. Meets all state and local regulations.
2. Final approval for the site must be obtained for all of the items in the "Project Reviews" section of this report. The following is an executive summary of the required approvals:
 - a. Rezoning
 - b. Conditional Use
 - c. Site Plan
 - d. Variance (this petition)
 - e. Parcel combination completion

	CITY OF DE PERE APPLICATION FOR VARIANCE	Fee: \$ 168.00
		Receipt #: 142679
		Date: 24 May '19

Read all instructions provided before completing. If additional space is needed, attach additional pages. Type or use black ink.

SECTION 1: Applicant / Permittee Information

Applicant Name (Ind., Org. or Entity) HNM LLC	Authorized Representative KATIE NEMITZ	Title PROJECT MANAGER	
Mailing Address 704 S WEBSTER AVENUE	City GREEN BAY	State WI	ZIP Code 54301-3528
Email Address katie@designunlimitedmfld.com	Phone Number (incl. area code) 715-384-3207	Fax Number (incl. area code) 715-384-9922	

SECTION 2: Landowner Information (complete these fields when project site owner is different than applicant)

Name (Ind. Org. or Entity)	Contact Person KATIE NEMITZ	Title PROJECT MANAGER	
Mailing Address 704 S WEBSTER AVENUE	City GREEN BAY	State WI	ZIP Code 54301-3
Email Address katie@designunlimitedmfld.com	Phone Number (incl. area code) 715-384-3207	Fax Number (incl. area code) 715-384-9922	

SECTION 3: Project or Site Location

Project Address: Legal Description: 233 S. ERIE STREET	Parcel Number(s): ED 1112-1114
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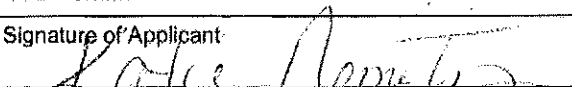
SECTION 4: Variance Information

Section of De Pere Code which creates need for Variance:	14-40.-R-3 Residence District
Ordinance Provision:	50' Minimum Rear Yard Setback required for a Medical Institution Conditional Use
Project Description:	Site redevelopment including the construction of a new 5,300 sf dental office
Variance Requested:	Reduction of Rear Yard Setback to 36'
Describe the exceptional circumstances or conditions that apply to your property and not to surrounding properties:	See attached
Describe the hardship(s) that would result if the variance is not granted:	See attached
Describe how the variance would not have adverse effects on surrounding properties:	See attached

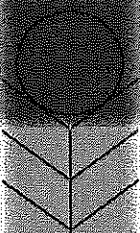
SECTION 5: Certification and Permission

Certification: I hereby certify that I am the owner or authorized representative of the owner of the property which is the subject of this Variance Application. I certify that the information contained in this form and attachments is true and accurate. I certify that the project will be in compliance with all permit conditions. I understand that failure to comply with any or all of the provisions of the permit may result in permit revocation and a fine and/or forfeiture under the provisions of applicable laws.

Permission: I hereby give the City permission to enter and inspect the property at reasonable times, to evaluate this notice and application, and to determine compliance with any resulting permit coverage.

Name of Owner/Authorized Representative (please print) Katie Nemitz	Title Project Manager	Phone Number 715-384-3207
Signature of Applicant 		Date Signed 05-14-19

Maps and scaled drawings which help explain the request are strongly encouraged. Attach additional sheets if necessary.



DESIGN UNLIMITED

ARCHITECTS

**MAC Dental Center – DePere, WI
Additional Responses to SECTION 4: Variance Information**

Describe the exceptional circumstances or conditions that apply to your property and not to surrounding properties:

MAC Dental Centers currently owns (3) separate connected properties at the intersection of Lewis and Erie St. As part of the proposed redevelopment of these properties, we are applying for rezoning of the northernmost property from R-2 to R-3, applying for the combination of all three parcels and applying for a new allowed Health and Medical Institution Conditional Use.

With the current dental office located on the southern most existing parcel, our objective is to construct our new building on portions of the two northern most parcels and then to demolish the existing facility to allow for construction of the on site parking lot where the building currently sits.

We felt strongly that the most appropriate location for the new parking lot would be at the corner of the two City streets rather than in the middle of the block.

We also feel by maintaining a 36' setback, we would be exceeding the 30' rear yard setback that would be required under all Permitted Uses.

Describe the hardship(s) that would result if the variance is not granted:

Currently each of the three existing parcels are 60' in width. Given the minimum 75' width required for new construction, along with the minimum setbacks required even for permitted uses, the parcels become unbuildable without granting some form of variance.

Describe how the variance would not have adverse effects on surrounding properties:

Currently, the existing single family home on the northern most parcel has a ZERO foot setback to the adjacent property to it's north. We are proposing demolishing this existing home and providing landscaped greenspace in the entire area that existing home currently occupies.

We also have modified our original site design to extend decorative architectural vinyl fencing along the entire northern property line at the request of the adjacent property owner.



MAC
dental centers

May 20, 2019

RE: Proposed Project for MAC Dental, 233 S. Erie Street

Dear Property Owner:

Thank you all for your feedback.

Recently we sent a letter to all of you inviting you to provide feedback regarding our upcoming building enhancement project to our clinic located near you.

Your comments and suggestions were invaluable to our process of maintaining our community-based presence in the area.

We have incorporated suggested changes to our approach. A few of the changes include:

- ❖ The entrance to the parking lot is moved away from the alley.
 - We immediately bought and deployed a "Slow - Children" stand up sign for the alley.
- ❖ The external lighting will be soft lighting and turned off after business hours.
- ❖ A more complete barrier at the north end of the building
- ❖ WE have changed our business hours so the latest time of closure will be 7pm.

We will continue to work hard at being good neighbors. The landscaping is going to be beautiful. Our commitment to helping this community continues. We have been in this area since 1999 and we look forward to another 20 years.

We look forward to seeing you in the neighborhood!

Sincerely,

MAC Dental

GREEN BAY
704 S. Webster Avenue #402
Green Bay, WI 54301
(920) 435-6894

DePERE
233 S. Erie Street
DePere, WI 54115
(920) 336-1952

WWW.MACDENTAL.COM

CITY OF DE PERE

335 South Broadway, De Pere, WI 54115 | www.de-pere.org



June 5, 2019

RE: Proposed rezoning, conditional use, and site plan for property at 221-233 S. Erie Street
Parcels ED-1112, ED-1113, ED-1114 (MAC Dental)

Dear Property Owner:

This mailing has been sent to update you about applications for a rezoning, a conditional use (to allow a medical office), a site plan and a variance for the MAC Dental property at 221-233 S. Erie Street, located at the northeast corner of the Erie Street and Lewis Street intersection in the City of De Pere (see attached map and graphics).

The applications (except for the variance) were considered by the City of De Pere Plan Commission on May 28, 2019 and referred back for reconsideration by the Plan Commission on Monday, June 24, 2019 at 7:00 pm. Thus, none of the items will appear on the June 18, 2019 Common Council Agenda as was referenced in a May 16, 2019 letter from the City. While the schedule could change based on Commission direction, the following timeline is currently being followed.

- **Board of Appeals on June 24, 2019 at 4:45 pm**
 - Variance – 221-233 S. Erie Street for building setbacks
- **Plan Commission on June 24, 2019 at 7:00 pm**
 - Rezoning – 221 S. Erie Street from R-2 (Single and Two-Family Residence District) to R-3 (Multiple Family Residence District)
 - Conditional Use 221 S. Erie Street to allow for health and medical institutions (dental office)
 - Site Plan— 221-233 S. Erie Street for a proposed reconstruction and expansion of an existing business (dental office).
- **Common Council on July 16, 2019 at 7:30 pm**
 - Public hearing and Council action regarding above referenced rezoning and conditional use

All meetings will be located in the Council Chambers on the second floor of De Pere City Hall. Copies of the meeting agendas will be available on the City of De Pere webpage at <http://www.de-pere.org/> a few days before each meeting.

You are welcome to attend the meetings to learn about the proposal and to provide comments. If you have any additional questions or comments regarding the proposal, or if hard copies of the meeting agendas are desired, contact me at (920) 339-4043 or pschleinz@mail.de-pere.org.

Respectfully,

Peter Schleinz
Senior Planner | Zoning Administrator

CC: Katie Nemitz, Design Unlimited (authorized representative for HNM LLC, property owner)

Attachment: Adjacent Owner - Referred to Staff - PC Letter - 05 Jun 2019 (8541 : Staff recommendation and possible action regarding a

Proposed Rezoning from R-2 to R-3 with a Conditional Use.



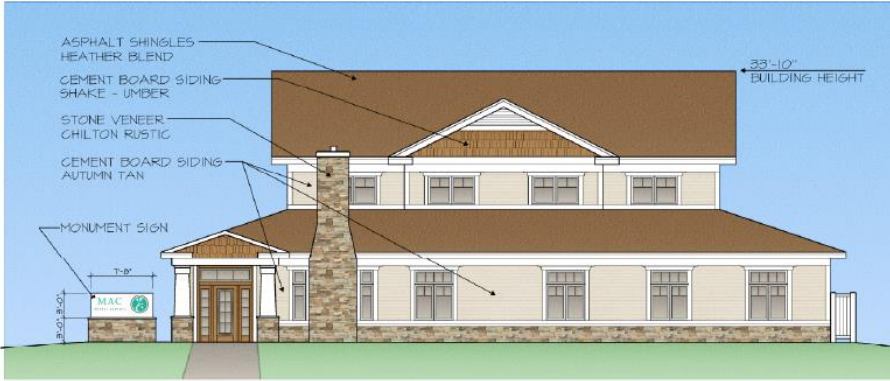
This map was produced utilizing a variety of sources the City of De Pere reasonably believes are reliable, including GIS data, some of which was under development at the time this map was produced. The City of De Pere makes no warranty, either expressed or implied, including no warranty as to fitness for a particular use, of the information contained in or comprising this map.

Map of De Pere, WI Provided By The De Pere Planning/GIS Department 2010

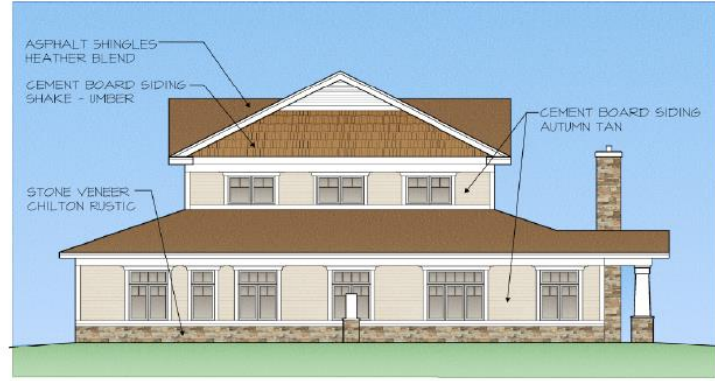
05/15/2019
Scale 1:1800

Attachment: Adjacent Owner - Referred to Staff - PC Letter - 05 Jun 2019 (8541) : Staff recommendation and possible action regarding a

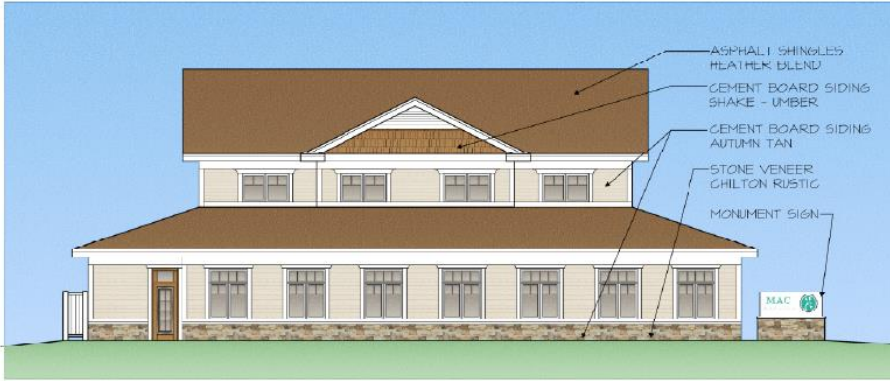
Proposed Site Building Elevation Graphic



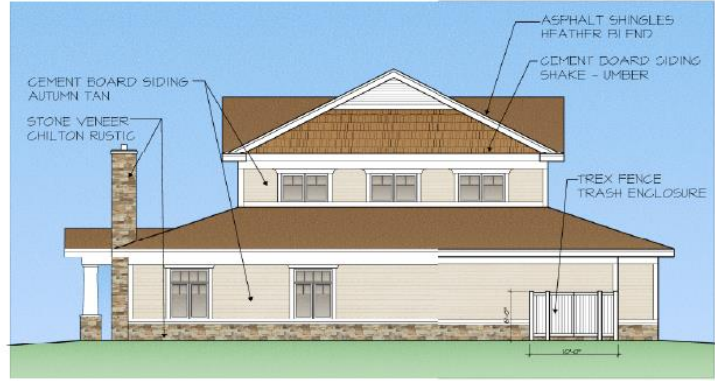
PROPOSED SOUTH ELEVATION - VIEW FROM LEWIS STREET



PROPOSED WEST ELEVATION - VIEW FROM ERIE STREET



PROPOSED NORTH ELEVATION



PROPOSED EAST ELEVATION

MAC DENTAL CENTER - PROPOSED NEW OFFICE

DESIGN UNLIMITED OF MARSHFIELD

Kelly Barker

From: Lisa Cherney <cherneyla12@gmail.com>
Sent: Tuesday, May 28, 2019 8:55 AM
To: Peter Schleinz
Subject: MAC Dental Proposal

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

As the property owner at 215 S. Erie, it should come as no surprise to you that, like the majority of my neighbors, I vehemently oppose MAC Dental's proposed rezoning and expansion. Our neighborhood is not the right place for a large commercial expansion.

In reviewing the agenda for this evening's zoning committee meeting, I see that they have very quietly asked for a variance that effects my property as well. Though I am not surprised they have tried to push this through without my knowledge, I am nonetheless continually disappointed in how badly they behave as neighbors.

Can you help me understand exactly what they are asking for? It appears to me that they want to develop closer to my property than would otherwise be allowed. Has the variance issue been resolved yet? Or is yet to go before the Board of Appeals?

I appreciate your prompt response.

Lisa A. Cherney

Attachment: Neighbor Email - objection to project - 28 May 2019 (8541 : Staff recommendation and possible action regarding a variance request

Kelly Barker

From: Robert Olmsted <robertolmsted232@gmail.com>
 Sent: Friday, June 07, 2019 2:10 PM
 To: Peter Schleinz
 Subject: Re: Mac Dental

Follow Up Flag: Flag for follow up
 Flag Status: Flagged

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I Am At A Total Loss As To Why We Are Still Discussing Mac Dental That Should Have Been Put To Rest After The Last Meeting We Are Not In Favor Of Any Rezoning We Have A Quite Neighborhood And Want To Keep It That Way Thanks Again.

On Thu, May 23, 2019 at 2:53 PM Robert Olmsted <robertolmsted232@gmail.com> wrote:
 Thank you for the clarification.

On Wed, May 22, 2019 at 4:43 PM Peter Schleinz <pschleinz@mail.de-pere.org> wrote:

Good evening, Mr. Olmstead:

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[I have received both of your emails. I am sorry that I misunderstood that a response to the first email was being requested.](#)

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[I cannot respond to the accuracy comments that may have been made by MAC Dental as the project has not gone before our Plan Commission or Common Council yet for a recommendation. Please note that both of your email comments will be included as attachments to the report that goes to the Plan Commission and Common Council.](#)

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[Let me know if you have any other questions. Many thanks!](#)

-

Peter Schleinz

Senior Planner | Zoning Administrator | [City of De Pere](#)

[335 S. Broadway | De Pere, WI 54115](#)

Tel: (920) 339-4043 x 2 | Fax: (920) 330-9491

Attachment: Neighbor Email - objection to project and rezoning - 07 Jun 2019 (8541) : Staff recommendation and possible action regarding a



Genuine. Down to Earth. Forward Thinking. Rooted in Strong Values.

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From: Robert Olmsted [mailto:robertolmsted232@gmail.com]
Sent: Wednesday, May 22, 2019 3:13 PM
To: Peter Schleinz
Subject: Re: Mac Dental

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Now I Have Received A Notice From Mac Dental Acting As If It Is A Done Deal The Opinion Is The same No We Don't Want The Expansion Thank You I Have Not Heard Back From You So I Hope You Are Getting These E Mails

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On Tue, May 21, 2019 at 1:58 PM Robert Olmsted <robertolmsted232@gmail.com> wrote:

Hello From Robert Olmsted I As I Told My Alderman Am Not In Favor Of Rezoning For Mac Dental Expansion. We Have A Nice Quiet Neighborhood And Want To Keep It That Way. Also A lot Of Children Around And Don't Need The Extra Traffic. I Have Been In Touch With Area Residents And They Feel The Same Way Please Vote Accordingly Thank You.

Attachment: Neighbor Email - objection to project and rezoning - 07 Jun 2019 (8541 : Staff recommendation and possible action regarding a

June 12, 2019

To City of De Pere
Attn: Board of Appeals, Plan Commission, Common Council

Re:221-233 S. Erie Street

I live a half block away from the site, and doubt that it will affect me directly. Traffic increases on Lewis and Erie streets may affect me but the most serious traffic problems in the area are associated with parents delivering children to Dickinson, Foxview and Notre Dame schools in the morning on school days.

However, the decision that permitted the dental office to locate at Lewis and Erie many years ago is a prime example of unwise spot zoning.

There is, in current urban development philosophy, a belief in having some neighborhood service businesses located in otherwise residential areas. This is usually associated with "residential neighborhood walkability," where people can walk to a small shop located in their neighborhood. That was common in the 1920s through the 1960s, when there were small neighborhood grocery stores, with limited grocery offerings, in many urban neighborhoods. They were located there because most families had only one car, and the corner store sold grocery items that were carried home by foot, or pulled along in a child's wagon.

The proposed expansion of the Mac Dental clinic is not such a facility. It is designed to draw customers (patients) from a large geographic area, and most will commute there by car. By design, it will increase traffic on the streets.

Three suggestions:

1. If the real intent is to transition S. Erie Street to a commercial zone, change the comprehensive plan to recognize that instead of expanding spot zoning in conflict with the comp plan. In other words, "be honest."
2. Treat pedestrians, primarily children who walk to and from Legion Park all summer, as the primary consideration. Unfortunately, mechanical traffic counters will not give you data on them.
3. Unless the plan for the site includes Lewis Street as a commercial street, all access to the clinic should be on Erie Street, not Lewis, reducing the conflicts between children walking to and from the park, and traffic entering the clinic's off-street parking lot.

There are available places in the community, in commercial zones, where an expanded clinic could go. Denying Mac Dental expansion on the Erie Street site is not an action without alternatives.

Because I work out of town, and work into the evening every day, I can not appear at any of the upcoming opportunities identified in the letter by Mr. Schleinz.

Edward Byrne
303 S. Huron Street
De Pere WI 54115
edwbyrne@athenet.net.