

AGENDA
CITY OF STURGEON BAY
ZONING BOARD OF APPEALS
Tuesday, November 8, 2022 @ 12:00 Noon
Council Chambers, City Hall
421 Michigan Street, Sturgeon Bay, WI

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from September 27, 2022.
4. Approval of minutes from October 11, 2022.
5. Public Hearing: Variances from Section 20.27(2) of the municipal code for Andrew Loch located at the southeast corner of S Lansing Avenue and W Spruce Street, parcel #281-46-65090102.
6. Consideration of: Variances from Section 20.27(2) of the municipal code for Andrew Loch located at the southeast corner of S Lansing Avenue and W Spruce Street, parcel #281-46-65090102.
7. Adjourn.

NOTE: DEVIATION FROM THE AGENDA ORDER SHOWN MAY OCCUR.

Notice is hereby given that a majority of the Common Council may be present at this meeting to gather information about a subject over which they have decision-making responsibility. If a quorum of the Common Council does attend, this may constitute a meeting of the Common Council and is noticed as such, although the Common Council will not take any formal action at this meeting.

Committee Members:
Bill Murrock
Bill Chaudoir
Dave Augustson
Nancy Schopf
Morgan Rusnak
Alt. 2: Ronald Vandertie

11/3/2022
2:00 p.m.
CS

CITY OF STURGEON BAY
Zoning Board of Appeals
September 27, 2022

The City of Sturgeon Bay Zoning Board of Appeals was called to order at 12:00 p.m. by Chairperson William Murrock in Council Chambers, City Hall, 421 Michigan Street.

Roll call: Members William Murrock, Nancy Schopf, Bill Chaudoir, Morgan Rusnak and Dave Augustson were present. Staff present was Planner/Zoning Administrator Christopher Sullivan-Robinson and Community Development Administrative Assistant Cindy Sommer.

Adoption of agenda: Moved by Ms. Schopf, seconded by Ms. Rusnak to adopt the following agenda:

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from August 23, 2022.
4. Public Hearing: Variance from Section 20.27(2) of the municipal code for (Seehafer) located on N. Hudson Avenue, parcel #281-64-61001301.
5. Consideration of: Variance from Section 20.27(2) of the municipal code for (Seehafer) located on N. Hudson Avenue, parcel #281-64-61001301.
6. Adjourn.

All ayes. Carried.

Approval of minutes from August 23, 2022: Moved by Mr. Augustson, seconded by Ms. Schopf to approve the minutes of August 23, 2022. All ayes. Motion carried.

Public hearing: Variance from Section 20.27(2) of the municipal code for Brennan Seehafer located on N. Hudson Avenue, parcel #281-64-61001301: Chairperson Murrock opened the public hearing at 12:02 p.m.

Mr. Sullivan-Robinson explained that this is an undeveloped lot that previously under the same ownership as the lot to the south. The lot is zoned R-2, which requires lots to be 7,500 square feet, however the house to the south encroaches on this lot. The petitioner had a Certified Survey Map prepared to shift the property line to eliminate the encroachment, however it reduces the lot area to 6,510 square feet. Staff supports the lot change and notes that approval of the variance would eliminate the encroachment. Approximately 70% of the properties along this area of the waterfront have non-conforming lot sizes.

Mr. Chaudoir questioned how the encroachment happened. Mr. Sullivan-Robinson explained there is no clear record of when or why this encroachment occurred but it's probable that the property owner owned both lots at the time the house was built and likely never intended to sell the lots separately.

The applicants, Brennan Seehafer and Shilah Seehafer of 822 S. 8th Street, Manitowoc, WI, presented the petition. Mr. Seehafer explained that he hasn't closed on the property yet and is waiting to see if the variance will be approved before purchasing. He explained that he has exhausted other options to increase the lot size, including purchasing a small portion of the lot to the north, which has not worked out. He explained that both adjacent property owners are in support of his proposal to build on this smaller lot. He is proposing a tall, narrow building that fits well on the lot consisting of two stories and a walk-out basement. No garage is planned and ample parking is available at the street level above the retaining wall, which he plans to improve about 4 parking spaces with concrete or blacktop. He is planning to put a catwalk from that parking lot to the main level of the house. There is an existing blacktop driveway that will stay in place and adds additional parking. He explained that about 6" of the driveway encroaches on the neighbor to the north, which was accidental when the blacktop was poured as the property line had been surveyed prior to the work being done. There will be no digging into the cliff edge and very little excavation is needed for the construction. The dock is in good condition with new concrete and the seawall is also in good condition.

No members of the public testified at the hearing. One letter of support from James & Polly Schaus, neighbors at 440 N. Hudson Avenue, was entered into the record.

The public hearing was declared closed at 12:21 p.m.

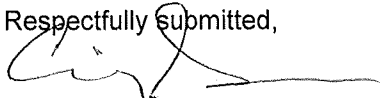
Consideration of: Variance from Section 20.27(2) of the municipal code for Brennan Seehafer located on N. Hudson Avenue, parcel #281-64-61001301.

Mr. Chaudoir indicated these variances have been requested and approved in the past on this street with their unique properties, noting that 70% of the properties do not conform to the required lot sizes. He believes that the house encroachment was self-inflicted by the property owner, who likely never intended to divide the lot and then later changed his mind.

Moved by Mr. Chaudoir to approve the variance from Section 20.27(2) of the municipal code for Brennan Seehafer located on N. Hudson Avenue as presented with the reasoning that this neighborhood has unique challenges because of the distance between the water and the road, as well as elevation changes, so it raises challenges to get conforming lots, thereby causing a hardship. Motion seconded by Ms. Rusnak, noting that the proposed building will not encroach on any setbacks if approved. The addition was also approved by the movant. Roll call vote, all ayes. Motion carried.

Moved by Mr. Augustson, seconded by Mr. Chaudoir to adjourn. All ayes. Motion carried. The meeting adjourned at 12:24 p.m.

Respectfully submitted,



Cindy Sommer
Community Development
Administrative Assistant.

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**CITY OF STURGEON BAY
Zoning Board of Appeals
October 11, 2022**

The City of Sturgeon Bay Zoning Board of Appeals was called to order at 12:01 p.m. by William Chaudoir, Vice Chairperson, in Council Chambers, City Hall, 421 Michigan Street.

Roll call: Members William Chaudoir, Nancy Schopf, Dave Augustson and Ron Vandertie were present. Staff present were Community Development Director Marty Olejniczak and Community Development Administrative Assistant Cindy Sommer.

Adoption of agenda: Moved by Mr. Vandertie, seconded by Ms. Schopf to adopt the following agenda:

1. Roll call.
2. Adoption of agenda.
3. Public Hearing: Variance from Section 20.34(1) of the municipal code for Gregg and Karen Daanen located on Tacoma Beach Road, parcel #281-64-91000114.
4. Consideration of: Variance from Section 20.34(1) of the municipal code for Gregg and Karen Daanen located on Tacoma Beach Road, parcel #281-64-91000114.
5. Adjourn.

All ayes. Carried.

Public hearing: Variance from Section 20.34(1) of the municipal code for Gregg and Karen Daanen located on Tacoma Beach Road, parcel #281-64-91000114: Vice Chairperson Chaudoir opened the public hearing at 12:02 p.m.

Mr. Olejniczak reported that this is the first residential lot on Tacoma Beach Road east of Clay Banks Road. It is owned by Greg and Karen Daanen. The City has a special setback of 50 feet from the state highway, which provides a for nice view corridor along the highway and also preserves the space for the Department of Transportation to widen the highway at a later date if desired. A previous variance was granted for the same parcel in 2018 for a house. This request is to for a 28' x 40' detached garage located 10 feet from the highway right-of-way at its closest point. The proposed garage replaces an existing 24' x 40' detached garage, which is located on the highway right-of-way line.

The applicant, Gregory Daanen of 920 Tacoma Beach Road, explained that the existing garage impedes the approach to the house and when the variance for the house was granted in 2018, the Board recommended that this garage be replaced, which he is now proposing to do. The new garage will be in a similar location, but will comply with the 10' side yard that would be required if the property line wasn't the highway right-of-way. It will also help reduce highway noise, which benefits the neighbors as well. Mr. Daanen explained that the 50' highway setback would essentially cut his property in half, thereby restricting the ability to build a new detached garage. He is also planning to plant more trees to help reduce the highway noise. He indicated that rebuilding on the east side of the driveway would mean putting the detached garage in front of the home and reducing the view from the home. He would like to have the foundation poured before winter sets in and then construct the building in the spring of 2023. After the new garage is built, he will then demolish the existing garage. He plans to use the building for recreational vehicle storage.

No members of the public presented for the hearing and there were no letters regarding the variance request.

The public hearing was declared closed at 12:13 p.m.

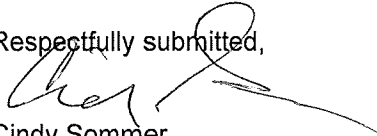
Consideration of: Variance from Section 20.34(1) of the municipal code for Gregg and Karen Daanen located on Tacoma Beach Road, parcel #281-64-91000114:

Mr. Augustson recalled that it was the recommendation of the Board in 2018 to replace this existing building. The proposed location makes sense for noise reduction as well as access. It's unlikely that the highway will ever be widened to four lanes over the bridge, and there would still be enough room to do so without adversely affecting this property. The highway view is not being hindered in any way, however putting the garage on the east side of the driveway would hinder the neighbors as well as the view from the house.

Motion by Mr. Vandertie to approve the variance request as presented with the reasoning that it will be an asset to the property, will reduced highway noise and it also is more conforming than the current building. Motion seconded by Ms. Schopf. Roll call vote, all ayes. Motion carried.

Moved by Ms. Schopf, seconded by Mr. Augustson to adjourn. All ayes. Motion carried. The meeting adjourned at 12:18 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Cindy Sommer', with a long horizontal flourish extending to the right.

Cindy Sommer
Community Development
Administrative Assistant.

NOTICE OF PUBLIC HEARING

The City of Sturgeon Bay Zoning Board of Appeals will hold a public hearing in the Council Chambers at City Hall, 421 Michigan Street, Sturgeon Bay, Wisconsin, on Tuesday, November 8, 2022, at 12:00 p.m. or shortly thereafter, in regard to a variance request from Andrew J. Loch from section 20.27(2) of the Sturgeon Bay Zoning Code, which requires that buildings have a minimum street yard (setback) of 20 feet and a minimum side yard of 8 feet in the Mixed Commercial-Residential (C-5) zoning district. Mr. Loch is proposing to build a 30' x 44' building that would be located as close as 15 feet from the S. Lansing Avenue right-of-way and as close as 6 feet from the side (east) lot line. The subject property is located at the southeast corner of S Lansing Avenue and W Spruce Street, parcel no. 281-46-65090102. The variance application is on file with the Community Development Department and can be viewed on the City's website (www.sturgeonbaywi.org) or at City Hall weekdays between 8:00 a.m. and 4:30 p.m. The public is invited to give testimony in regard to the variance request either in person at the hearing or in writing.

By order of:
City of Sturgeon Bay Plan Commission

**CITY OF STURGEON BAY
VARIANCE APPLICATION
ZONING BOARD OF APPEALS**

Date Received: 10/18/2022
Fee Paid \$ 300.00
Received By: CS

	APPLICANT/AGENT	LEGAL PROPERTY OWNER (if different)
Name	<u>Andrew J. Loch</u>	
Company		
Street Address	<u>2450 San Lorenz Dr.</u>	
	<u>Green Bay, WI</u>	
City/State/Zip	<u>54304</u>	
Daytime Telephone No.	<u>920-655-7610</u>	
Email:	<u>thedraindude13@gmail.com</u>	
STREET ADDRESS OF SUBJECT PROPERTY: Location if not assigned a common address:		<u>Spice/Lansing</u>
TAX PARCEL NUMBER: <u>2814665090102</u>		
CURRENT ZONING CLASSIFICATION: <u>C5</u>		
CURRENT USE AND IMPROVEMENTS: <u>n/a</u>		
IDENTIFY MUNICIPAL CODE SECTION PERTINENT TO REQUEST AND STATEMENT OF SPECIFIC ITEM BEING REQUESTED FOR REVIEW: <u>Setbacks (Yards) under</u> <u>S. 20.27(2). Requesting 6' side yard and 15' street yard.</u>		
ZONING AND USES OF ADJACENT SURROUNDING PROPERTIES:		
North: <u>C-5 ; small engine repair</u>		
South: <u>C-5 ; residential</u>		
East: <u>C-5 ; residential</u>		
West: <u>C-5 ; residential</u>		

VARIANCE STANDARDS

Please address how the proposed variance meets each of the three required standards for authorizing variances. (Attach additional sheets, if necessary)

1. Unnecessary hardship:

See Attached

2. Unique physical property limitation:

See Attached

3. Protection of public interest:

See Attached

HAVE THERE BEEN ANY VARIANCES, CONDITIONAL USE PERMITS, ETC. GRANTED PREVIOUSLY FOR THIS PROPERTY? IF YES, EXPLAIN:

NO

Attach an 8-1/2" X 11" detailed site plan (if site plan is larger than 8-1/2" x 11", also include 15 large sized copies), full legal description (preferably on disk), 8-1/2 x 11" location map, construction plans for the proposed project, and Agreement for Reimbursement of expenses. Site plan shall include dimensions of property, pertinent structures and buildings, proposed site improvements, signature of person who drew plan, etc.

Andrew J Loch
Property Owner (Print Name)

[Signature]
Signature

10-18-22
Date

Applicant/Agent (Print Name)

Signature

Date

I, Andrew Loch have attended a review meeting with at least one member of staff and understand that I am responsible for sign placement and following all stages listed on the check list in regard to the applicant.

10-18-22
Date of review meeting

[Signature]
Applicant Signature

[Signature]
Staff Signature

Attachments:

Procedure & Check List

Agreement for Reimbursement of Expenses

STAFF USE ONLY

Application conditions of approval or denial:

Date

Planner / Zoning Administrator

- 1.) Lot is only 52' wide, and was created prior to current zoning ordinances, which makes it very difficult to construct a reasonable commercial building meeting required setbacks.
- 2.) Being a corner lot w/ larger road setbacks than side yard setbacks the lot is more restrictive.
- 3.)
 - (a.) Variance will not affect any future utilities/improvements.
 - (b.) Several buildings in the neighborhood, including both adjoining properties, have non conforming setbacks which will not make the proposed building out of character.
 - (c.) The proposed site is well off Spruce St. so the reduced side yard will be as low impact on the current residence and view, while the proposed building size will leave +150% of rear yard setback.

W. SPRUCE ST.

S. LANSING AVE.

ASPHALT

DRIVE

17.00'

S 01° 26' 00" E 162.54'

S 89° 44' 00" W

52.17'

8L

44'

30'

N 01° 24' 00" W 161.96'

11' 9" S1

44'

52.07'

N 89° 06' 00" E

S 89° 06' 00" W

30.00'

S 01° 26' 00" E

20.25'

101.1 - 100.1

101.1 - 100.1

Variance Request
Parcel: 281-46-65090102





MEMO

To: Zoning Board of Appeals
From: Marty Olejniczak
Date: November 3, 2022
Subject: Variance Request – S Lansing Ave/W Spruce St

Petition: Andrew Loch is petitioning for variances from section 20.27(2) which requires principal buildings in the Mixed Residential-Commercial (C-5) district to be set back at least 20 feet from the street right-of-way and 8 feet from the side property line. The proposed variance would support a 30' x 44' building that would be located 15'-6" from the right-of-way line of S. Lansing Ave and 6'-6" from the west (side) property line. This will require a variance of 4'-6" from the street yard and a variance 1'-6" from the side yard.

Site Conditions: The parcel is 52 feet x 162 feet. It is long and narrow. It was created prior to the zoning code being adopted by the City. There is plenty of space to meet the required yards on the north and south, but there is only 24 feet of building space between the required yards on the east and west. There are no wetlands or other topographic features on the site that limit its buildability, but there is about a four-foot drop along the property line between the subject lot and the lot to the east.

Zoning: The subject property was recently rezoned from the C-1 General Commercial to the C-5 Mixed Commercial-Residential district. This was done at the petition of the property owner in order to better facilitate the development of the parcel. The C-5 district allows a mixture of uses and also requires lesser yards (setbacks) than the C-1 district.

The required yards in the C-5 district are 20 feet from the street right-of-way, 8 feet from a side lot line, and 25 feet from a rear property line. Since the subject lot is a corner lot, there are two street yards. For flexibility one of the remaining lot lines is deemed the rear lot line and one is deemed the side lot line. In this instance, due to the shape of the lot, the east line is considered the side lot line. This arrangement matches the rest of that block of Spruce Street and provides 24 feet of building width. There would only be 7 feet of buildable width if the south lot line were to be considered the side lot line.

The provisions of Chapter 20 were adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the city, and to secure adequate light, pure air and safety from fire and other dangers, to conserve the taxable value of the land and buildings throughout the city, to preserve and enhance aesthetic value and to ensure aesthetic compatibility with neighboring property, and preserve the appropriate character of each area within the sound principles of zoning throughout the city.

Surrounding Area: The subject property is in an older part of the city with a mixture of commercial and residential uses. Many of the lots in the vicinity are substandard. It is noted

that all five of the surrounding principal buildings encroach upon at least one of their required yards and, thus, are considered nonconforming buildings.

Variance Standards: There are standards for granting a zoning variance as defined by Wisconsin Statute 62.23(7)(e)7.d which state: *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.*

The applicant is responsible for proving an unnecessary hardship, identifying any property limitations, and the variance would not in turn negatively impact the public interest. Mr. Loch provided his rationale why the proposal meets the standards for the variance. The Board should review his submission and testimony before deciding the variance.

Other Considerations:

1. The applicant has placed the proposed building in a location that is relatively far from adjoining principal buildings. Since it will be 78 feet from W. Spruce Street, it will be past the rear of the house on the abutting lot to the east, thereby minimizing the impact. It also will be well south of the house across S. Lansing Avenue and over 40 feet from the building to the south.
2. The applicant has not fully designed his building yet. Understandably, he wants to know how much space he has to work with before completing the architecture. If the design of the building is deemed a critical factor in the determination of the Board, the decision to grant or deny the variance could be postponed until architectural plans are submitted or conditions relating to the building design could be placed on the variance, if granted.

Staff Opinion: Given the relative narrowness of the subject lot and the considerable amount of existing nonconforming buildings in the neighborhood, granting relief from the required yards is reasonable. Community Development Department staff does not have any particular concerns with the proposal, but the Board will need to determine if the required yards are unnecessarily burdensome and, if yes, the specific amount of relief to grant.

Options: The Zoning Board of Appeals can:

1. Approve both variances as proposed.
2. Approve one variance but not the other.
3. Approve a lesser variance than requested for either of the variances.
4. Deny both variances.

In addition, the Board can place conditions on the approval of any variance, if the condition(s) relate to the variance being granted.

View looking east



© All EagleView Technology Corporation

View looking south



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Google Maps 123 W Spruce St

Sturgeon Bay, Wisconsin

Google

Street View - Aug 2013

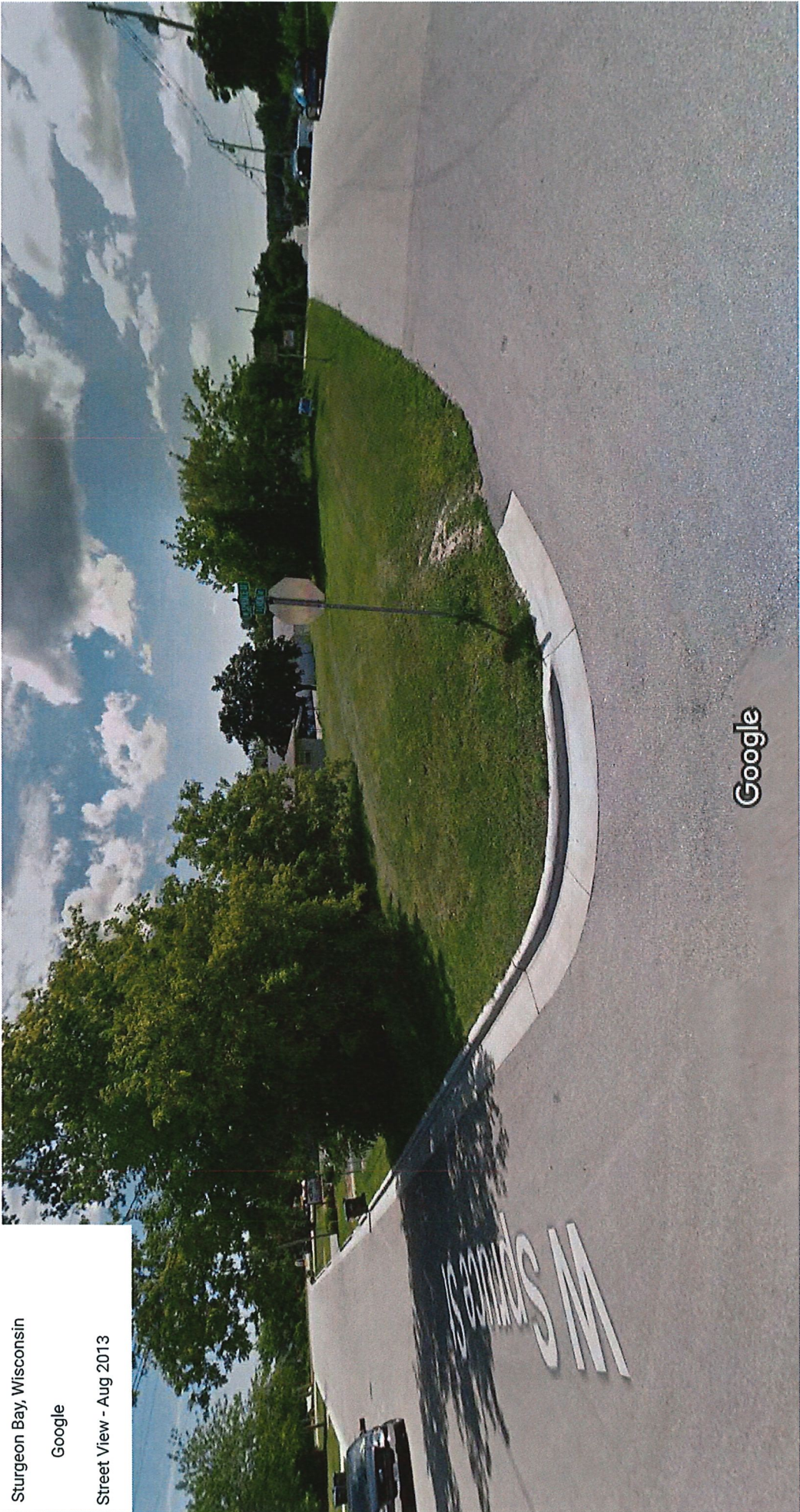


Image capture: Aug 2013 © 2022 Google

Google Maps 407 S Lansing Ave

Sturgeon Bay, Wisconsin

Google

Street View - Aug 2019



Image capture: Aug 2019 © 2022 Google