



**CITY OF WAUWATOSA**  
7725 W. North Avenue  
Wauwatosa, Wisconsin 53213  
Telephone: (414) 479-8957  
Fax: (414) 471-8414

**AGENDA**  
**BOARD OF ZONING APPEALS**  
**THURSDAY, JANUARY 28TH, 2016 – 7:00 PM**  
**COMMITTEE ROOM #1**

- \*1. Request Joseph Militello at 2218 N 117th Street in the R1-6 Residential District appealing the decision of the Board of Public Works that denied parking a commercial vehicle in a residential district.

\*Under Wisconsin Statutes 19.85(1)(a) or (g) the Board may adjourn into closed session for purposes of deliberating after a quasi-judicial hearing or to confer with their legal counsel. Subsequent to the closed session, the Board may reconvene in open session for further consideration of other matters on the agenda.

Any person who has a qualifying disability as defined by the American With Disabilities Act that requires the meeting or materials at the meeting to be in an accessible location or format must contact the City Clerk at voice telephone 479-8917 or TTY 471-8484 (City Hall, 7725 West North Avenue, Wauwatosa, Wisconsin 53213) for accommodations. Requests for accommodations for meetings should be made at least three (3) business days prior to the meeting. Every effort will be made to arrange accommodations for all meetings, so please give the City Clerk as much advance notice as possible.

Please note: A 5 minute break after each hour of meeting time is scheduled to allow a rest period for the recording clerk.

CITY OF WAUWATOSA  
MEMO



To: **Board of Zoning Appeals**

From: **Jennifer Ferguson**

Date: **January 21, 2016**

Subject: **Request Joseph Militello at 2218 N 117th Street in the R1-6 Residential District appealing the decision of the Board of Public Works that denied parking a commercial vehicle in a residential district.**

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In response to a neighbor complaint concerning a limousine parked in the front yard driveway at the property, the City's code enforcement officer verified the complaint and sent a notice of noncompliance to the property owner. As a commercial vehicle, the outdoor parking of the limousine is in violation of the City's off-street parking code in residential zoning districts (section 24.11.060 C, attached). Commercial vehicles must be parked in an enclosed building in a residential district. The property owner was subsequently mailed an application for the Board of Public Works (BPW) to request a variance to code requirement, as they are the City body that initially considers such a request.

The Board of Public Works considered the variance request November 16<sup>th</sup> meeting and voted unanimously to deny the request (minutes attached). The applicant's next avenue of recourse is this appeal to the Board of Zoning Appeals.

By ordinance, the Board of Zoning Appeals reviews an appeal of a decision of the Board of Public Works as a *de novo* hearing. The *de novo* hearing is a new hearing and therefore the Board of Zoning Appeals owes no deference to the previous decision and takes on the role of BPW as an independent entity. The Board should create an entirely new motion and either uphold the appeal, or vote to deny the applicant's request. Should the Board uphold the appeal, the applicant could park the commercial vehicle outdoors at the property; however, it would have to be parked in the rear/side yard as parking is not allowed in the front yard of residential districts. The location of the parking was not part of the initial notice of noncompliance or the applicant's BPW variance request and would necessitate a subsequent appeal.



City of Wauwatosa GIS

DISCLAIMER: The City of Wauwatosa does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.



SCALE: 1" = 35'



City of Wauwatosa  
7725 W. North Avenue  
Wauwatosa, WI 53213  
(414) 479 - 8900

Print Date: 1/12/2016

CE15-0253



CITY OF WAUWATOSA  
BUILDINGS & SAFETY DIVISION  
7725 WEST NORTH AVENUE  
WAUWATOSA, WISCONSIN 53213  
(414) 479-8907 PHONE  
(414) 479-8986 FAX

# Property Maintenance Complaint Form

The mission of the Property Maintenance Program is to preserve property values and blight by maintaining all properties in a condition that reflects a quality community.

Instructions: Please fill-in all fields. Incomplete forms cannot be processed.

Property location	2218 N 117th St	Date	10/20/15
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Complaint Type -- Check all that apply

<input type="checkbox"/>	Debris - Junk in yard (except children's toys)
<input type="checkbox"/>	Paint - Peeling (>75% of building) - complaints are deferred between Oct. 15 and May 14
<input type="checkbox"/>	Siding - Missing or in need of repair
<input type="checkbox"/>	Window - Broken
<input type="checkbox"/>	Grass - > 6 inches in average height - complaints are deferred between Oct. 15 and May 14
<input type="checkbox"/>	Fence - Damaged or in need of repair
<input checked="" type="checkbox"/>	Vehicle - Parked on lawn
<input type="checkbox"/>	Other - ( <a href="http://www.wauwatosa.net">www.wauwatosa.net</a> - Municipal Code 15.32)

Non Property Maintenance Complaints	Vehicle - Unlicensed or Junked (contact Wauwatosa Police Department at 471-8430) Garbage - (contact Wauwatosa Health Department at 479-8936) Snow - (contact Wauwatosa Parks and Forestry at 471-8420)
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Explain specifically what the complaint is:

Limo parking in the front yard

Please note: Anonymous complaints do not have the necessary credibility to provide "probable cause" and therefore cannot be processed. Your name and contact information is public record but is only available through a public records request. Anonymous parties are referred to their elected officials, who may choose to be the complainant in order to protect the privacy of their constituents.

Complainant Name:	Tony Nedd
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Complainant Contact Information: Address or phone number required.	(715) 332-5612
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Department use only	<input type="checkbox"/> Processed	Complaint Number PM	CE15-0253
	<input type="checkbox"/> Referred to	Department	Date

Revised March 2008

Attachment: january boza packet (3771 : 2218 N 117th - Appeal of BPW Decision)



2218 N. 117th St JT

Attachment: january boza packet (3771 : 2218 N 117th - Appeal of BPW Decision)



CITY OF WAUWATOSA  
**BUILDING & SAFETY DIVISION**  
 7725 WEST NORTH AVENUE, WAUWATOSA, WISCONSIN 53213

PHONE (414) 479-8907  
 FACSIMILE (414) 479-8986  
 E-MAIL: [tbuilding@wauwatosa.net](mailto:tbuilding@wauwatosa.net)  
 WEB SITE: [www.wauwatosa.net](http://www.wauwatosa.net)

10/21/2015

Angelo and Lucia Militello  
 2218 N 117th St  
 Wauwatosa, WI 53226

CE15-0253

**1<sup>st</sup> Notice of Noncompliance**

Re: **2218 N 117th St**  
 Required compliance date: **November 3, 2015**

A recent inspection of the premises noted above revealed conditions that are in violation of the Municipal Code of the City of Wauwatosa. All cited violations listed below shall be corrected by **11/3/2015** unless an extension of time is granted.

Inspection Date: 10/21/2015

Code Section	Work Required	Code Language
24.11.060 C.3 Off Street Parking	Remove the limousine from the property or park in an enclosed building.	No person, firm or corporation may park a commercial vehicle in any residential district.

Where additional inspections are made necessary by reason of neglect or work found faulty, defective, or incomplete at the time of inspection, or at the expiration of time permitted, an order of noncompliance and a re-inspection fee (**1st re-inspection \$50, 2nd - \$100, 3rd - \$200, 4th and all subsequent inspections - \$400**) may be charged to the property owner.

Persons who wish to appeal these orders are required to fill out an appeal form with this division within **fifteen (15)** days of this notice to request a hearing. Hearing procedures and cost may vary depending on the item being appealed.

The City of Wauwatosa will conduct a re-inspection on or after the compliance date above. Thank you for your cooperation in keeping your Wauwatosa neighborhood at a high standard of maintenance and quality. If you have any questions, please contact me at (414) 479-8981, or by e-mail at [jtillmann@wauwatosa.net](mailto:jtillmann@wauwatosa.net).

Sincerely,

Joe Tillmann, Code Enforcement Officer

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## UNIFORM COMPLAINT/REFERRAL

Complaint Number: CE15-0253

LOCATION:		PAGE
2218 N 117th St		2
Date	Condition & Action Taken	Initials
11/2/15	Received a voicemail from Joe stating he has not received a letter regarding a meeting to discuss the violation	JT
11/3/15	Called Joe. Left voicemail advising that he wasn't sent a letter regarding any meeting to discuss the violation. I advised that we sent the application for appeal and that he needs to fill it out and submit it with the fee, get a hearing date and a decision will be made at that time. Also advised that I will extend to 11/6 to allow him time to submit the appeal and schedule a hearing, but if form is not submitted and a hearing date set by then I will re-inspect and assess appropriate corresponding fees. Left my phone number.	JT
11/3/15	I received a call from Joe. He confirmed receipt of the appeal form. I advised him to submit it with payment as soon as possible so he can get a hearing date. He said he will fax it in this afternoon. I advised to make sure payment is submitted with the paperwork and that it has been received and processed before 11/6. I advised that if not received I will begin re-inspecting with fees, but if submitted before due date I will hold off until a decision is made by the board.	JT
11/4/15	I received the appeal form via fax. I provided a copy to Deor along with a copy of the order and the ordinance. Deor will contact Joe to advise him that the appeal can't be processed until his payment is received. Copy attached.	JT
11/11/15	Joe visited the office to pay the fee for appeal. At that time he asked if I could dismiss the order if the complainant retracted the complaint and I advised him that it wouldn't matter because the violation has already been documented. He advised that he thought the complaint was invalid and should mean that the violation should not be valid. I advised that it would be in his best interest to look at the code for a valid dispute because the origin of the complaint has no bearing on whether or not the violation exists. I emailed him the relevant code section regarding financial hardship to send through for the appeal.	JT

Attachment: January boza packet (3771 : 2218 N 117th - Appeal of BPW Decision)



**24.11.060 - Location of Off-Street Parking.**

- A. General. Except as expressly allowed by the off-site parking regulations of Section 24.11.060D, required off-street parking spaces must be located on the same lot as the building or use they are required to serve.
- B. Residential Districts. The following regulations apply in all residential zoning districts:
1. Off-street parking spaces accessory to residential uses may be located in any setback except required front and street side setbacks. A two-unit residential building with attached garages is allowed to have 2 of the 4 required parking spaces located on paved areas in front and/or street side setbacks.
  2. No motor vehicles may be parked on property occupied by residential uses unless they are within a garage, upon a paved parking slab, or upon a paved driveway leading directly from the street to the garage or paved parking slab.
- C. **Parking of Commercial Vehicles in Residential Districts.**
1. It is the declared purpose of this section in exercising the general police powers of the city and pursuant to the authority of the city to regulate land use, to preserve and maintain the esthetic attractiveness of residential neighborhoods, and toward this end it is the considered determination of the governing body of the City of Wauwatosa that vehicles that have the appearance of being used for commercial purposes if parked on residential properties outside of a garage has a general effect of detracting from the residential character of the neighborhood. It is recognized that the use of trucks and other vehicles that in the past have been traditionally used primarily for commercial purposes have in recent years gained popularity and widespread acceptance as both recreation and passenger vehicles. Therefore, the purpose of this section is not to restrict the use or parking of all trucks, but rather to prohibit the parking of commercial trucks or vehicles outside of a garage within a residential zoning district.
  2. To provide guidelines in determining whether a specific vehicle is a commercial vehicle for purposes of this section, the following characteristics must be considered although no one of such characteristics will be considered conclusive in determining whether such vehicle constitutes a commercial vehicle.
    - a. If the vehicle carries a commercial or truck registration;
    - b. If the vehicle has a commercial sign affixed, attached or painted thereof, the commercial character of the sign will be given considerable weight;
    - c. If the vehicle is ordinarily used for commercial purposes and if such use is discernible from the exterior of the vehicle;
    - d. If the gross weight of the vehicle exceeds 5,000 pounds.
  3. No person, firm or corporation may park a commercial vehicle in any residential district.
  4. This section is not intended to prohibit the temporary parking of commercial vehicles while they are being used to perform a service or make deliveries at the location where parked.
  5. This section is not intended to prohibit the parking of vehicles within a garage within a residential district.
- D. Off-Site Parking.
1. General. All or a portion of required off-street parking for nonresidential uses may be provided off-site, in accordance with the provisions of this section. Required accessible parking spaces for persons with disabilities may not be located off site. Required parking for residential uses must be located on the same lot as the residential use to be served by the parking.

NOV 04 2015



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BUILDING & SAFETY DIVISION  
7725 WEST NORTH AVENUE, WAUWATOSA, WISCONSIN 53213

Attn Joe Tillmann

PHONE (414) 479-8907

FACSIMILE (414) 479-8986

E-MAIL: [building@wauwatosa.net](mailto:building@wauwatosa.net)

WEB SITE: [www.wauwatosa.net](http://www.wauwatosa.net)

APPLICATION FOR APPEAL TO BOARD OF PUBLIC WORKS

Address 2218 N. 117th St, Wauwatosa WI 53226

Owner Lucia Militello / Joseph Militello Phone 414-769-9900

Address 2218 N. 117th St City/State Wisc WI Zip 53226

Applicant Dr Joseph Militello Phone 414-769-9900

Address 2218 N. 117th St City/State Wisc WI Zip 53226

Lot Size \_\_\_\_\_ Zoning District ?

Property Maintenance  Pool  Air Condenser Location  Well abandonment  Other

PROPOSED VARIANCE REQUEST -

Specify reason for petition and what particular hardships are involved. Examples: insufficient lot area, insufficient front, side or rear setback, placement of equipment would decrease efficiency, etc.

I have a home based business as a Limo service and someone filed a complaint for a commercial use on private property

ATTACH THE FOLLOWING:

1. Plans, cross section and/or photographs that depict your proposal (if applicable). N/A
2. Adjoining property owners: All names and addresses of all abutting and opposite property owners. N/A
3. Survey or plot plan. N/A
4. \$100.00 Appeal fee (Air condenser locations - \$100.00). All fees nonrefundable.

Owner of Record's Signature (required) Lucia Militello, Mother Date NOV 3, 15

Applicant (Print Name) Joseph Militello, son  Contractor  Architect/Engineer  Owner  Agent

Applicant Signature Joseph Militello Date NOV 3, 15

DO NOT FILL IN BELOW LINE - OFFICE USE ONLY

Appeal Fee \$ \_\_\_\_\_ Date Paid \_\_\_\_\_ Receipt # \_\_\_\_\_ Aldermanic District \_\_\_\_\_

Attachment: January boza packet (3771 : 2218 N 117th - Appeal of BPW Decision)



# CITY OF WAUWATOSA

## BOARD OF PUBLIC WORKS

### MINUTES • NOVEMBER 16, 2015

Regular Meeting

Committee Room #1

8:30 AM

7725 West North Avenue, Wauwatosa, WI 53213

#### BOARD OF PUBLIC WORKS ITEMS

Attendee Name	Title	Status	Arrived
Carla Ledesma	City Clerk	Present	
John Ruggini	Finance Director	Present	
Alan Kesner	City Attorney	Present	
Paulette Enders	Development Director	Present	
John Dubinski	Alderman	Present	
William Mainus	Building Inspector	Present	
William Wehrley	City Engineer	Present	
Michael Steiner	Asst. City Engineer	Present	

1: Minutes from previous meeting

Moved by Mr. Ruggini, seconded by Ms. Enders  
to recommend approval of the November 16, 2015 minutes as printed - Ayes: 6

<b>RESULT:</b>	<b>APPROVE [UNANIMOUS]</b>
<b>MOVER:</b>	John Ruggini, Finance Director
<b>SECONDER:</b>	Paulette Enders, Development Director
<b>AYES:</b>	Ledesma, Ruggini, Kesner, Enders, Dubinski, Mainus

2. Appeal made by Joseph Militello, A. G. Limo Service, of Notice Of Noncompliance for commercial vehicle parked in residential district in the driveway of 2218 N. 117th Street

The Code Enforcement Officer explained that he responded to a complaint received about a limousine parking in a driveway at 2218 N. 70<sup>th</sup> Street. An inspection was made on October 21<sup>st</sup>, 2015 and a notice of noncompliance was sent.

Joseph Militello, 2218 N. 70<sup>th</sup> Street, explained that he has had a limousine business housed out of this address since 1997. There is one 10-passenger vehicle which he parks in his driveway and a Cadillac that gets parked behind the garage, which is out of sight. He said there have not been any complaints about this in the past.

Mr. Militello explained that his noncompliance appeal was to address two issues: financial and health related hardship. He said that he takes care of his ailing mother who lives at this address and said that it would be too costly to find private parking offsite for the limousine.

Mr. Militello suggested the reason for the neighbor's complaint is that he is having difficulty selling his home. Mr. Militello said that they have a shared drive and that in exchange for driveway access for the limousine, he plows the neighbor's driveway. He felt the realtor was more the problem for the house not selling than his limousine business.

The City Attorney explained that our zoning code permits home based businesses providing any vehicles associated with it are parked legally. A commercial vehicle parked in a driveway is not legal.

Attachment: january boza packet (3771 : 2218 N 117th - Appeal of BPW Decision)

Ms. Enders noted that there have been conversations at the committee level regarding vehicles parked in front yards and some council members have problems with this. Further discussion regarding this is to be had at a later time.

Moved by Ms. Enders, seconded by Mr. Mainus  
to deny the appeal of Joseph Militello, 2218 N. 70<sup>th</sup> Street.

The Board had further discussion and the City Attorney noted that Mr. Militello has the right to a further appeal if he wishes to pursue it.

Mr. Ruggini suggested Mr. Militello be given 15 more days to further investigate other parking options. Although the business has been there a long time the zoning code is clear on this issue.

The motion was amended as follows:

Moved by Ms. Enders, seconded by Mr. Mainus  
to deny the appeal of Joseph Militello, 2218 N. 70<sup>th</sup> Street,  
providing an additional 15 days to relocate the commercial vehicle - Ayes: 6

Mr. Kesner relinquished the Board Chair to the Vice-chair due to conflict of interest for the next item.

<b>RESULT:</b>	<b>DENY [UNANIMOUS]</b>
<b>MOVER:</b>	Paulette Enders, Development Director
<b>SECONDER:</b>	William Mainus, Building Inspector
<b>AYES:</b>	Ledesma, Ruggini, Kesner, Enders, Dubinski, Mainus

- Request by Bridget Kesner, Development Director, Ronald McDonald House Charities, Eastern Wisconsin for two temporary vinyl banners to be hung on the Watertown Plank Road pedestrian bridge from December 1, 2015 to December 30, 2015

Ms. Enders explained that the request by Ms. Kesner does not meet the City sign code and that the banners would be in the City right-of-way. She felt that this discussion is bigger than what could be decided by the Board and should be considered by a different committee.

Bridget Kesner, Ronald McDonald House Charities, explained the request for the banners as an idea to raise awareness between Children's Hospital and the Ronald McDonald House. December is considered prime giving month, which is why they'd like to have the banners installed for the month of December.

Ms. Kesner acknowledged that this has not been done in the past but asked for an exception, due to the fact that Children's Hospital and Ronald McDonald House Charities are the prime pedestrian bridge users.

Mr. Wehrley said that he contacted the Department of Transportation (DOT) regarding the extra load on the bridge from the banners. He said that both sides of the bridge are screened so the wind blows through. With the banners, it could potentially make the bridge a sail. However, the DOT said that the pedestrian bridge was conservatively designed and didn't feel that the banners would negatively affect the bridge load.

Mr. Wehrley addressed the sight line safety question and explained that it would not be a distraction to drivers. There is no need to have distance between the bridge and overpass.

The Board did not take up the discussion of the banner wording.

Rick Koster, Imprint Digital Printing & Design Corporation, explained that the banners would be affixed using cable ties, so there would be no need to drill into the bridge. He suggested that the banners would be sound,