

President's Message

I've always enjoyed building. It goes back to when I was a kid and watching my dad build stuff. He wasn't a builder, per se, but he was always doing projects around the house. Finishing a basement, pouring a driveway, building a garage. It was fun to watch, help and learn.

Fast forward to doing this as a career. The passion is still there...I still marvel at what we do and how we do it. We get to design and build homes, and that's pretty cool. But along with it comes the need to run a successful business, meaning the need to pay attention to more than just swinging a hammer. So, here's my two cents on that side of things and I hope this will resonate with you, especially those fairly new to our industry.

I'll start with a question...How do you measure success at your company? It's a simple question and there's many ways to do it, but it can be hard to judge if you're not taking the time to measure your performance objectively. In our ongoing efforts to enhance project outcomes, it helps to establish and monitor key metrics for assessing performance. Effective measurement can drive improvements, streamline processes, and ensure project success.

To get you started, here are a handful useful metrics you can focus on that relate well to what we do in the building industry:

1. **Project Timeliness:** Track the percentage of projects completed on or ahead of schedule. This metric helps gauge your efficiency in adhering to deadlines and managing time effectively. It can also help identify any bottlenecks or pitfalls you have in your processes when you dig into the root cause for any delays.
2. **Budget Adherence:** Monitor the variance between estimated and actual project costs. Keeping projects within budget is critical for both your financial health and client satisfaction. Job cost reports don't lie, so learn from them.
3. **Quality of Work:** Assess the rate of rework, defects, or reordering of materials that you experience on each project. High-quality work with minimal rework or delays is a good indicator that you pay attention to detail and adhere to your set of standards.
4. **Safety Record:** Review the number of on-site accidents/injuries. A strong safety record is essential for protecting your workers and curbing the costs of insurance premiums. In fact, your insurance agent can often give advice or provide you with resources to minimize risk on job sites.
5. **Client Satisfaction:** Evaluate feedback and satisfaction ratings from clients. Positive client relationships and satisfaction scores reflect your ability to meet or exceed expectations. Negative feedback provides you with an opportunity to improve.

Yes, these metrics can be boring compared to the everyday duties of building a house. But, trust me, by regularly monitoring these metrics, you reinforce to your team the importance of delivering projects efficiently, within budget, and to the highest standards that you have established. And use this data to as a commitment to continuous improvement by making any changes you feel necessary to uphold the quality and reliability of your services.



Mark Robinson, Blenker Construction

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20th Annual Jeff Nygaard Golf Outing





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Thank you Seth Stormoen, Bergmans and Eric Golla for being on the Golf Committee and putting a lot of hard work into organizing this event. Thank you to everyone that came and volunteered and those members that did events for the golfers at the tees. It is a long day in the sun and you guys rocked! Special thanks to the Nygaards and Linda Nygaard and Leah Busse for bringing a cake to celebrate the 20th year of this event.



The current tenant in our GSHBA office (located at 1001 Theater Dr in Plover) will be leaving at the end of August. We would like to open up the opportunity to lease space to all our GSHBA members prior to listing the space for rent. The office is 1,512 sq feet and can be divided into four separate office areas. There is a kitchen, bathroom and lobby area. We are open to renting out the entire space or the office spaces separately. The price is negotiable dependent on your needs.

If you are interested, reach out to me via email office@gshba.net or call 715-340-2242.

CALENDAR *of* EVENTS

August 15 - Place of Peace Dinner

Sept 4 - Parade of Homes Bus Tour

Sept 6-9 - Parade of Homes

Sept 17 - Awards & Installation Dinner

Sept 29 - Winner Winner Chicken Dinner

PARADE - O F - HOMES

September 6-9, 2024

Fri. & Mon 3:00pm - 7:00pm
Sat & Sun 11:00am - 6:00pm



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*Successful events are the result of successful partnerships.
Golden Sands Home Builders Association would like to thank this year's sponsors.*

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This year we have 11 homes in the Parade. See list below of participant builders and houses. Reach out to a builder to see if they need help at their home with ticket taking or anything else during the weekend. Help spread the word about the event. If you have an electronic board at your company or an area you could put up posters, please share the event. We will be doing a lot on social media so please share those posts and the Parade event as they become available.

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2714 N. Biron Drive (Village of Biron) Wisconsin Rapids

233 County Rd. Z Nekoosa, WI

2121 Peninsula Place Junction City 54443

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1394 Rain Dance Trail Nekoosa, WI



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OUTDOOR GRILLING - PACKER GAME - MEAT RAFFLE



**WINNER
WINNER
CHICKEN
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PLUS OINKERS

Sunday September 29

11:00 AM - 2:00 PM

At Lucke's *3252 Mecca Dr. Plover*

Dine In or Grab & Go



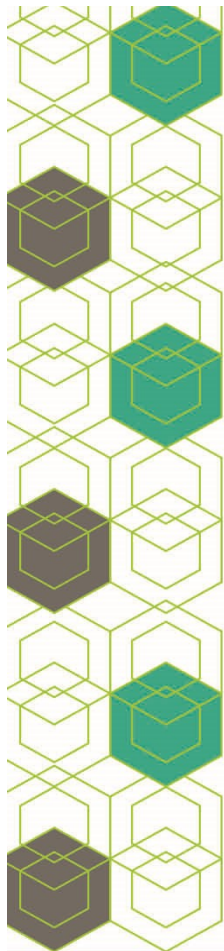
Tickets at www.gshba.org or Lucke's

\$20 Includes: Charcoal grilled 1 / 2 Chicken or Pork Chop, Baked Potato, Coleslaw, Beans, Roll and a Drink Ticket. Proceeds fund scholarships for local students pursuing careers in the building industry.

We are looking for Volunteers to help serve at the Chicken Dinner!

Shifts are from 10:45 - 12:30 & 12:30 - 2:15pm.

Email office@gshba.net if you are able to help.



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build my future Northcentral WI

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psst...we have options for
you to get involved with the
Parade of Homes events too!

GSHBA Members,

Each week people of all walks of life gather together at The Place of Peace to share a hot meal, prayers, conversation, and their lives. We live in an amazing community that make these important meals possible by providing the food, additional hygiene items, and a friendly smile!

GSHBA will be providing the meal at The Place of Peace on August 15th. We would love for you to be involved!



Doors open at 4:30 and dinner is served at 5pm sharp.

We are planning a meal of: ham/meatballs/mashed potatoes, Mac and cheese, Fresh fruit – strawberries/grapes/melon, Dessert – bars/brownies/cookies, and PB&J sandwiches (premade with some in baggies ready to grab).

We are asking for your help collecting additional items that are much needed.

Many of these items can be purchased at the Dollar Store or during sales coming up for the 4th of July holiday!

Grab N Go Items:

Boxes of granola bars

Energy Bars/Protein bars

Pudding pouches/cups

Fruit Snacks/ Raisins

Crackers with peanut butter

Canned goods/tuna or chicken packets

Juice pouches/boxes

Anything nonperishable

“To Go” containers for them to put extra food from the meal or paper lunch bags or plastic bags for the Grab N Go items to go in.

Hygiene Items:

Body Wipes

Toothpaste/brushes (adults and children)

Deodorant

Feminine hygiene items

Shampoos/Soaps

Lip balm

Diapers/wipes

All donations can be dropped off at The Portage County Bank or call me to arrange pickup!

You can also make monetary donations and we will purchase the needed items. If you would like to make a monetary donation, go to our website www.gshba.org under the “Events” tab and donate there.

If you need a sales receipt for the donation email Carrleen at office@gshba.net.

Anything you can donate is greatly appreciated and very needed by the people that the Place of Peace serve each week.

Thank you,

Jennifer Novotny

GSHBA Community Service Committee Chair (715) 340-9034



LOOKING FOR A WINDOW PARTNER? I CAN HELP!

Hi, I'm Brian Jeske. I am a 25 year veteran of Pella Windows and Doors of Wisconsin. My wife and I relocated from the greater Milwaukee area. I am a 5 time Pella Corporation presidents club winner. I work with residential builders, remodelers, architects, and homeowners to help select the right windows and doors for their projects. I take pride in my customer service, detail and accuracy. How can I help you with your project?

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By: Rebecca J. Roeker, Attorney, Attolles Law, s.c.
Pictures: Roeker, DOT

****For purposes of brevity, the accompanying footnotes or legal citations are not included in this article****

Imagine a scenario in which you are developing a parcel of land adjacent to a state trunk highway (STH). You are required to obtain subdivision plat approval from the Wisconsin Department of Transportation (WisDOT). You have plans to build a berm with landscaping as a buffer between the development and the STH. In addition to the berm and landscaping, the local municipality is also requiring that you accommodate extension of a bike trail in between the berm and the STH. You have local approval, so WisDOT approval should be just another box to check, right? Wrong. WisDOT tells you that you cannot have any improvements in a 100-foot setback area adjacent to the STH. This prohibits you from having the bike path, the berm, or flowers planted in this area. No exceptions. It does not matter what the local municipality is requiring in its approval of the development. In order for your development to move forward, you will have to convince the local municipality that no improvements may be located in the 100-foot setback area.

This was the nightmare scenario for owners and developers following a series of amendments to the Wisconsin Administrative Code that greatly expanded WisDOT's regulatory oversight, the resulting court cases, and then legislative gridlock that often produced absurd results. Property owners and developers were left stunned at the inability to improve significant portions of their land, and WisDOT was left frustrated by the lack of flexibility to grant an exception to the setback requirements when it made sense to do so. This was a lose-lose situation.

After many years of its members experiencing frustrating scenarios like the one above, WBA was happy to support the passage of 2023 Senate Bill 413, which became 2023 Wisconsin Act 157 (Act 157) on March 22, 2024. Act 157 is a "win" for property owners because it allows for greater use of one's land and additional clarity in the legal standards for WisDOT's administrative obligations of highway setbacks, and a "win" for WisDOT because it now has a tool to grant special exceptions in particular circumstances, and may therefore avoid absurd results. This article provides an overview of the events leading up to Act 157 to illustrate the legislative needs, and to understand the resulting legislative solution contained within Act 157.

A. Highway Setbacks and TRANS 233: The Original Regulatory Intent, and More Regulations. The issues underlying the need for legislative change in highway setback requirements went back several decades and involved multiple versions of Wis. Admin. Code. Ch. TRANS 233 (TRANS 233), which addresses WisDOT's rights and obligations in approving land divisions along STHs. The original intent of highway setback regulation in the context of subdivision review under Wis. Stat. Ch. 236 was to promote public health, safety and general welfare by allowing WisDOT an opportunity to review subdivisions of property that abutted a STH. The limited review was consistent with the stated purpose of TRANS 233, which was to specify minimum standards necessary to meet safety requirements for entrance on and departure from the abutting state trunk highways.

However, during a period of regulatory expansion, WisDOT oversaw a series of amendments to TRANS 233 in both 1999 and 2001 that significantly expanded WisDOT's power in regulating land divisions along STHs (Amendments). The expanded regulatory authority included WisDOT review and approval of all land divisions of property abutting an STH, including certified survey maps, and a mandatory review process that included a "conceptual review," a preliminary review and a final review by WisDOT. The review process imposed other significant regulatory requirements, such as noise standards, vision corner requirements, drainage requirements and specific fee requirements. While the Amendments included a tool for WisDOT to grant a "special exception" to the new regulations, property owners and developers were frustrated with the expanded regulatory oversight that did not appear to be supported by WisDOT's statutory authority. The frustration and regulatory overreach resulted in two cases that made significant impacts on highway setback regulation.

1. Wisconsin Builders Association v. Wisconsin Dept. of Transportation. In 2004, the Wisconsin Builders Association (WBA) brought the first case challenging the application and authority of the Amendments in Wisconsin Builders Association v. Wisconsin Dept. of Transportation. The WBA sought a declaratory judgment on several points, including an argument that the Amendments expanded WisDOT's authority beyond the scope authorized by the Wisconsin Statutes. Specifically, the WBA asserted that WisDOT only had authority to regulate subdivisions, and not any other type of land division.

On the first issue of whether WisDOT had statutory authority to regulate all land divisions, the Wisconsin Builders Court found that WisDOT's statutory authority is limited to review of subdivisions that abut an STH. The Wisconsin Builders Court recognized this statutory reference as granting WisDOT explicit authority to regulate land divisions which are statutorily defined as "subdivisions," but does not grant WisDOT authority to regulate other types of land divisions.

The Wisconsin Builders Court also rejected WisDOT's argument that it had implied statutory authority to regulate all land divisions pursuant to WisDOT's police power, and may do so via administrative rules such as TRANS 233. On the contrary, the Wisconsin Builders Court held that WisDOT must have explicit statutory authority to promulgate administrative rules, thereby avoiding excessive regulatory reach through the use of administrative rules and provisions set forth in the Wisconsin Administrative Code, such as TRANS 233. Both the Wisconsin Supreme Court and the Wisconsin Attorney General have recently reaffirmed the "explicit statutory authority" requirement for a state agency to promulgate an administrative rule.

2. Madison Area Builders Association, et al. v. Wisconsin Department of Transportation.

The second case to significantly impact WisDOT's authority under TRANS 233 is Madison Area Builders Association, et al. v. Wisconsin Department of Transportation. Ultimately, the Madison Builders Court held that the Amendments, in their entirety, were invalid and unenforceable. As a result, the significant regulatory restrictions set forth in the Amendments were not valid, and WisDOT only had authority to regulate via the pre-Amendment version of TRANS 233. While the Madison Builders decision eliminated WisDOT's expanded regulatory oversight set forth in the Amendments, WisDOT also lost the ability to grant special exceptions to the highway setback requirements because that provision was also contained in an Amendment.

B. Post-Wisconsin Builders and Madison Builders: Less Oversight, Less Flexibility, Same 100-foot Setback Restriction.

After the court cases, WisDOT continued reviewing subdivision plats adjacent to STHs, continued to impose a 100-foot setback restrictions, and continued to enforce the rule of no improvements in the 100-foot setback area. Property owners' and developers' frustrations continued at the inability to improve a significant amount of land, and WisDOT's frustration continued at the lack of flexibility.

The WBA weighed the options for "fixing" the legal deficiencies resulting in property owners not being able to place any improvement or structure in the 100-foot setback area. The WBA also met with WisDOT officials multiple times to discuss a resolution to the "lose-lose" situation of lost property rights and WisDOT's loss of flexibility in administering highway setback regulations. After discussion with members, a statutory change was sought as the most direct and efficient option of securing property owners' ability to use the setback area within a context that would be agreeable to WisDOT and lawmakers.

The goals for the new legislation were clear: (1) establish statutory authority that would not be misapplied or abused by a confused application of TRANS 233 or result in overregulation of land divisions adjacent to an STH; (2) allow an owner the greatest use of property as possible without sacrificing public safety or public investment in existing infrastructure; (3) establish a clear, data-driven process to allow WisDOT to grant exceptions to the highway setback requirements in order to avoid absurd results.

C. Act 157 and Wis. Stat. § 86.074: New Options for Use of Highway Setback Area

A property owner's rights and regulations protecting the public's best interests do not have to be mutually exclusive. In fact, a fundamental premise of our government is the balance between private rights and public protection. The intent behind 2023 SB 413 was to find that balance between an owner's right to use land adjacent to an STH while maintaining public safety and preserving highway infrastructure that is paid for with public dollars. Act 157 achieves this balance of interests: allowing a property owner the greatest use of property even if it abuts a STH, while maintaining public safety and the investment in highway infrastructure.

While it is hard to argue against public safety and protecting taxpayer investments in infrastructure, the standard of "maintaining public safety" and "protecting resources" can be easily manipulated to result in a significant curtailment of property owners' rights. WBA focused on regulatory standards that were not prone to abuse or misinterpretation, and therefore could be easily manipulated to justify "public benefit." Fortunately, WisDOT is a data-driven agency and maintains detailed plans of highway improvement projects planned decades in advance. In achieving the balance of interests, Act 157 focuses on future use and facility improvements, objective standards to establish public safety and protection of public investment, and requires "substantial evidence" to justify restrictions and deny exceptions on highway setback areas.

Using the "nightmare example" referenced above, what if WisDOT had a major improvement project planned for the STH in the next five years? Should the property owner/developer be able to build a berm with landscaping and a bike path in the highway setback area knowing that the highway will soon be expanded, and then be compensated when WisDOT acquires the area for the expanded highway? No, not if the taxpayers will have to pay for it and the owner/developer knew the area would be part of a highway within five years when it built the improvements! In this situation, when WisDOT has planned projects, an owner/developer may proceed at its own risk in making improvements to the setback area. In order to prevent taxpayers from having to compensate the owner for the "taking" of the improvements, the owner/developer must sign a waiver of damages for any compensation for those improvements. There may be a plethora of reasons why an owner/developer agrees to a waiver of damages, and now the owner/developer has that option to consider its business needs in deciding whether to build in the setback area. Prior to Act 157, the automatic answer was "no."

D. Key Components of Act 157.

Act 157 includes several parts to achieve the balance between an owner's right to use property and protection of public safety and public investment.

1. **Setback Reduction.** For any subdivision plat approved after March 23, 2024, WisDOT may not impose a highway setback area greater than 50 feet from the right-of-way line of the highway. This is a reduction from 100 feet pre-Act 157. WisDOT may also grant a smaller setback area if the reduction does not adversely affect the safety of the entrance or departure from the STH or public investment in the highway system.

2. **Defines Items Prohibited in a Setback Area.** The specific definitions of "structure" and improvement" clarify that non-movable items that adversely affect public safety or the preservation of public investment in highways are prohibited in the setback area unless a special exception is granted. The amended definition allows WisDOT to focus on the safety of keeping a setback area free of non-movable objects, yet allows WisDOT to use its future planning tools to determine whether a structure or improvement may be allowed in the setback area. Allowing WisDOT this flexibility will avoid absurd results.

3. **Further Restrictions on Setback Restrictions.** Even in the highway setback area, WisDOT may regulate only structures and improvements that "adversely affect the safety of entrance upon or departure from STHs or connecting highways or the preservation of public interest and investment in those highways."

4. **Creates Statutory Authority to Grant a "Special Exception."** Act 157 establishes statutory authority for WisDOT to grant a "special exception" to highway setback requirements, thus correcting the confusion created by various court cases and conflicting TRANS 233 provisions. By clearly establishing WisDOT's statutory authority to grant a special exception, WisDOT now has a tool for flexibility in administration of setback regulations.

5. **Establishes Legal Standards for the Special Exception Process.** In the special exception review process, WisDOT may utilize its future plans, applicable data, and planning tools when considering a special exception request, as that information is the best data available to WisDOT and meets the "substantial evidence" requirement. WisDOT is also required to use a "substantial evidence" threshold when placing conditions on the special exception permit. The conditions must be "related to the purpose of the highway setback area, based on substantial evidence, reasonable, and, to the extent practicable, measurable." In addition, the special exception process commences in the regions, and a denial may be appealed to WisDOT's central office. As such, there will be statewide application of the standards to ensure consistency in enforcing highway setback regulations, but property owners may start the process of obtaining a special exception permit with the "local" WisDOT regional office.

6. **Special Exception Availability is Retroactive.** The special exception process is not limited to subdivision plats approved after Act 157's effective date of March 23, 2024. As such, the special exception process is available to owners for placement of a structure or improvement in a 100-foot setback area that was established prior to March 23, 2024. The special exception process may also be used by an owner wishing to place an improvement or structure in the 50-foot setback established under the new law.

E. **Post-Act 157 and Next Steps.**

As property owners, developers, municipal officials, and business leaders look to the future, Act 157 provides a slice of certainty in the planning process by defining WisDOT's statutory authority, setting forth specific standards of regulation, and identifying the circumstances in which an owner may be granted relief from the burdens of owning property adjacent to an STH. While the "win-win" has finally been accomplished with the passage of Act 157, WBA will continue to monitor the implementation process that WisDOT must undertake to administer the new highway setback law. In addition, WBA will continue to educate its members regarding the new law so Act 157 and the new regulations may continue to be a "win-win."

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