

CITY OF  
**PORTAGE**  
*A Place for Opportunities to Grow*

# **ZONING BOARD OF APPEALS**

**April 12, 2010**



# CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, April 12, 2010

(7:00 pm)

Portage City Hall  
Council Chambers

## PLEDGE OF ALLEGIANCE

## APPROVAL OF MINUTES:

- \* March 8, 2010

## OLD BUSINESS:

## NEW BUSINESS:

- \* ZBA# 09-17, 879 Mall Drive: Mr. Gary Syverten, on behalf of Menards, 879 Mall Drive, is requesting a Temporary Use Permit to erect a 24-foot by 48-foot demountable greenhouse in the parking lot, and approval to store/display merchandise along the east side of the building from April 15<sup>th</sup> to October 15, 2010, and annually thereafter.
- \* ZBA# 09-18, 269 Tuscany Drive: Jud and Darcy Hoff, 269 Tuscany Drive, are requesting a six-foot variance to construct a 233 square-foot kitchen addition 34 feet from the rear (south) property line where a minimum 40 foot setback is required.
- \* ZBA# 09-19, 6018, 6026, 6060, 6110, 6150, 6190, 6278, 6294, South Westnedge Avenue & 200, 240 Mall Drive: Araneae Incorporated, on behalf of Old Navy, 6024 South Westnedge Avenue, is requesting a 48 square foot variance to replace a nonconforming 148 square-foot wall sign.

## STATEMENT OF CITIZENS:

## ADJOURNMENT:

## MATERIALS TRANSMITTED

Star (\*) indicates printed material within the agenda packet



**CITY OF PORTAGE ZONING BOARD OF APPEALS**  
Minutes of Meeting – March 8, 2010

 **DRAFT**

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Henry Kerr at 7:00 p.m. in the Council Chambers. Approximately 50 people were in the audience.

**MEMBERS PRESENT:** David Felicijan, Henry Kerr, Rob Linenger, Betty Schimmel, Lowell Seyburn, Marianne Singer, Donald Mordas, Daniel Rhodus (alt.)

**MEMBERS EXCUSED:** Timothy Bunch (alt.)

**IN ATTENDANCE:** Vicki Georgeau, Deputy Director of Neighborhood Services, Charlie Bear, Assistant City Attorney

**APPROVAL OF THE MINUTES:** Felicijan moved, and Linenger seconded a motion to approve the January 11, 2010 minutes as submitted. Upon voice vote, motion was approved 7-0.

**NEW BUSINESS:**

**ZBA# 09-14, 7508 Oakland Drive:** Staff summarized the request for a) an appeal of the staff determination that a sign permit can not be issued for the roof shamrock; or b) an interpretation that the shamrock on the roof of the Shamrock Montessori Center is not a sign; or c) a variance to allow a 320 square-foot roof sign when only a maximum 32 square feet of combined wall and freestanding signage is permitted. Michael and Yolanda Quinn were present to explain the request and explained the history of the Shamrock Montessori School which started in 1985 and indicated that the shamrock painted on the roof of the school is a symbol of Irish heritage and not considered sign. Ms. Quinn indicated that the Zoning Code is overly broad and the staff interpretation is burdensome. Ms. Quinn noted that their roofing contractor inquired with the city regarding permit requirements, and Mr. Quinn indicated the school has the support of neighboring property owners and questioned why the city does not consider the shamrock art and a form of self expression.

Kerr noted the name of the business includes a shamrock and indicated the shamrock appears to be a sign. Mr. Quinn indicated if the shamrock was on the roof of a house, or matched the color of the shingles, it may not be in violation. In response to Kerr, staff clarified that while a similar symbol on a house roof may not be regulated by the code, it may still present concerns and have an adverse impact on property values. Further, no other Portage businesses have similar roof symbols for comparison purposes. Mr. Quinn indicated that the ordinance is so broad, that it is subject to subjective bureaucratic interpretation. Kerr indicated that Community Development acted in accordance to the authority provided in the code. Linenger added that the Board has been asked to interpret the code as the applicant disagrees with staff.

A public hearing was opened. The following persons spoke in favor of the request: Larry Provancher, 7414 Starbrook; Jason Frank, Kalamazoo resident; Andelas Strautkalns, 6820 Lovers Lane; Peggy Collins, 5620 Angling; Halim Knight, Kalamazoo resident; Tim Keck, 7551 Montego Bay; Sara Baker, Kalamazoo resident; Hugh Mark, 6426 Cherrywood; Lara Huff, 7581 Capri; Robert Ingalls, 542 Aldersgate; Brian McIntrye, 9913 S. 12<sup>th</sup> Street; Chris Hurley, 6329 Westshire; Katie Hurley, 6329 Westshire; Zora Provancher, 7414 Starbrook. Citizen comments included: that the shamrock is a symbol of solidarity, self-expression, heritage and art that beautifies the building and it is not advertising; that no complaints had been received and the shamrock is not offensive; that the interpretation the shamrock is a sign is overbroad and unreasonable; and that a variance should be granted in this instance. A petition signed by Taukir Gill, 1960 Schuring Road and Dan Mowry, 1940 Schuring Road, and an email communication from Melvin Visser, 2001 Schuring Road, in support of the request, were read into the record. There being no more comments, the public hearing was closed.

Felicijan noted his support of small local business and indicated that he too struggled with whether the shamrock was a sign. Attorney Bear clarified that former and current signs for the Peppermill and Kindercare businesses are legal nonconformities that may continue as long as no changes are made. Mr. Bear also noted the shamrock is ten times larger than permitted by the Zoning Code. Seyburn requested clarification on the zoning and the reason why a sign permit was not issued. Staff noted that the sign is too large and is located on the roof, and that roof signs are not permitted by the Code. Linenger cautioned that the decision of the Board can set precedent for future similar requests.

After additional discussion, with regard to requests a) an appeal of the staff determination that a sign permit can not be issued for the roof shamrock; and b) an interpretation that the shamrock on the roof of the Shamrock Montessori Center is not a sign, a motion was made by Felicijan, supported by Singer, that a) a sign permit cannot be issued for the roof shamrock and b) that the shamrock on the roof is a sign as defined by the Zoning Code. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be

incorporated in the record and the action of the Board shall be final and effective immediately. Felicijan-Yes, Linenger-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-Yes, Mordas- Yes, Singer-Yes. Upon roll call vote, the motion carried 7-0.

With regard to request c), a variance to allow a 320 square-foot roof sign when only a maximum 32 square feet of combined wall and freestanding signage is permitted, a motion was made by Felicijan, supported by Mordas, to deny the variance for the following reasons: there are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district; the variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives or signage falls under legal nonconforming conditions; the immediate practical difficulty causing the need for the variance request was created by the applicant, the variance would materially impair the intent and purpose of the zoning ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and the action of the Board shall be final and effective immediately. Felicijan-Yes, Linenger-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-Yes, Mordas- Yes, Singer-Yes. Upon roll call vote, the motion carried 7-0.

ZBA# 09-15, 8201 Cox's Drive: Staff summarized the request for a) an interpretation that seasonal soccer practice fields are similar to an outdoor theater use in an I-2, Heavy Industrial district, or b) a variance from the maximum two 1-year time periods for a Temporary Use Permit to continue the seasonal soccer practice field use from April 2010 through October 2014, and c) a variance from the off-street parking lot paving requirement. David Rice was present to explain the request on behalf of the Portage Soccer Club and discussed the history of the use of the property for outdoor recreation, and challenges associated with the current lease with Pfizer that is limited to seven years with renewals and a 90-day termination clause. Rice indicated that Portage Soccer Club has 250 players that use the fields for practice and that the Pfizer adult co-ed soccer league also plays games on Thursday evenings at the site. Mr. Rice explained the club prefers approval for requests a) and c) together, and indicates the use is identical to previous uses, is seasonal, recreational entertainment similar to an outdoor theater, is low impact and relieves congestion at city parks. With regard to the parking lot paving variance request, Rice indicated that the formal gravel parking lot has been restored, compacted and improved with a layer of crushed asphalt, and that the site is utilized by a very low impact recreational use.

A public hearing was opened. The following persons spoke in favor of the request: John Kelleykitis, Kalamazoo Twp. resident; Norm Jansen, 2746 Pfitzer; Felicia Murry, 5611 W. Heverly; Bill Restevo, 5510 Swallow, Texas Twp. resident; Steve Thompson, Schoolcraft resident, and Tom Mellinger, 9928 Sailor. Citizen comments included: that the facility relieves congestion in city parks; that the facility is safe, provides more than ample room for the Portage Soccer Club and enhances training; and that an unpaved parking lot is consistent with the natural setting and wildlife on the site.

Seyburn asked for clarification as to which alternative, a variance from the Temporary Use Permit time period, or an interpretation that soccer practice fields are similar to an outdoor theater, is preferred by the city. Staff explained that either option is acceptable to staff, and that the applicant prefers a favorable interpretation and variance from the parking paving. Staff also verified the applicant must obtain a Special Land Use Permit and site plan approval from the Planning Commission, and that the applicant is aware of such requirement. Felijcan asked if the Planning Commission can apply conditions to the Special Land Use Permit. Staff indicated yes, provided such conditions are reasonable.

After additional discussion, a motion was made by Seyburn, supported by Linenger, to approve a variance from the maximum two 1-year time periods for a Temporary Use Permit to continue the seasonal soccer practice field use from April 2010 through October 2014 for the following reasons: the practical difficulty being that the lease is terminable at the will of the property owner, that the property is not used four months of the year and the applicant has not used the property for a full one-year period; the variance will not be detrimental to adjacent property; the variance will materially impair the intent and purpose of the zoning ordinance; and the variance will be subject to the following conditions: 1) no capital improvements of a structural nature shall be erected on site, including artificial illumination, and 2) the vehicular gravel base shall continue to be maintained and shall conform in all other respects to the off-street parking standards set forth in Section 42-521. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and the action of the Board shall be final and effective immediately. Felicijan-No, Linenger-Yes, Kerr-No, Seyburn-Yes, Schimmel-Yes, Mordas- No, Singer-No. Upon roll call vote, the motion failed 3-4.

A motion was made by Felicijan, supported by Singer, that with regard to request a) an interpretation that seasonal soccer practice fields are indeed similar to an outdoor theater use in an I-2, Heavy Industrial district, and c) a variance from the off-street parking lot paving requirement, be granted. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and the action of the Board shall be final and effective immediately. Felicijan-Yes, Linenger-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-Yes, Mordas-Yes, Singer-Yes. After further discussion and upon roll call vote, the motion carried 7-0.

**STATEMENT OF CITIZENS:** None.

**ADJOURNMENT:** There being no further business, the meeting was adjourned at approximately 8:45 p.m.

Respectfully submitted,

Vicki Georgeau, Deputy Director of Neighborhood Services



**ZONING BOARD OF APPEALS APPLICATION**

**FOR COMPLETION BY APPLICANT**

Application Date 2/18/10

Name of Applicant Menards Gary Syvultsen *Gay Syvultsen*  
 Print Signature

Applicant's Address 879 Mall Drive Phone No. \_\_\_\_\_

Name of Property Owner (if different from Applicant) Meyer C. Weiner Company

Address 200 Mall Drive Portage Mi. 49024 Phone No. 269-760-6338

Address of the Property that is the subject of this Application:

Street Address 879 Mall Drive

For Platted Property: Lot \_\_\_\_\_ of \_\_\_\_\_ Plat \_\_\_\_\_

[If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.]

Applicant's interest in Property that is the subject of this Application: \_\_\_\_\_

Application Fee \_\_\_\_\_ (Residential Uses) \_\_\_\_\_ (All Other Uses)

Type of Appeal (Please check one of the following bold choices and provide the requested information):

**Variance from Zoning Ordinance:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_  
 Regarding: Use \_\_\_\_\_ Area \_\_\_\_\_ Yards \_\_\_\_\_  
 Setbacks \_\_\_\_\_ Parking \_\_\_\_\_ Other \_\_\_\_\_

Reason for Request (Also complete page 2 of application): Modification To Temporary use permit  
to allow greenhouse April 15 through October 15 future years to be  
March through September

**Appeal of Administrative Decision:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: \_\_\_\_\_

**Interpretation of the Zoning Ordinance:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: \_\_\_\_\_

**A Temporary Permit for:** Building \_\_\_\_\_ Use \_\_\_\_\_ Other Approval \_\_\_\_\_

Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

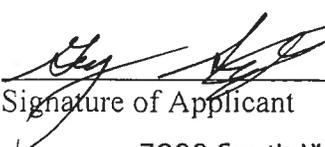
Reason for Request: \_\_\_\_\_

**FOR STAFF USE**

Application Number: <u>09-17</u>	Filing Date: <u>2/19/2010</u>	Tentative Hearing Date: <u>4/12/2010</u>
Previous Application Filed Regarding This Property: <u>03-31, 6/14/2004</u>		

### Reason For Variance

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)  
\_\_\_\_\_  
\_\_\_\_\_
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)  
\_\_\_\_\_  
\_\_\_\_\_
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)  
\_\_\_\_\_  
\_\_\_\_\_
4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to other property owners in the area? (Attach additional sheets if needed.)  
\_\_\_\_\_  
\_\_\_\_\_
5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area. (Attach additional sheets if needed.)  
\_\_\_\_\_  
\_\_\_\_\_
6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area. (Attach additional sheets if needed.)  
\_\_\_\_\_  
\_\_\_\_\_
7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)  
\_\_\_\_\_  
\_\_\_\_\_
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)  
\_\_\_\_\_  
\_\_\_\_\_

  
\_\_\_\_\_  
Signature of Applicant

3/12/10  
\_\_\_\_\_  
Date

**Victoria Georgeau - Temporary use permit. New letter**

---

**From:** General Manager - Menard Inc - Portage Michigan <BCKOFF013519@stores.menard-inc.com>  
**To:** Vicki Georgeau <georgeav@portagemi.gov>  
**Date:** 3/23/2010 8:40 AM  
**Subject:** Temporary use permit. New letter

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Vicki Georgeau  
City of Portage

Menards purpose for requesting a temporary use permit would be to put up a live plant hut in our parking lot. This would be for the purpose of selling live plants and shrubs. This would be a new product line for our store. Which we are looking have to better serve our customers. We would need the live plant hut to make this work as we do not have the room in our outside lumber yard area to do this. We are operating out of a small store here and this would give us the extra room we need to have live plants and shrubs. The plant hut would be within a area fenced in by cedar split rail fencing. This new area would operate the same hours as the store. Thank you in advance for your consideration.

Thank You  
Portage Menards GM  
Gary Syvertsen

P.S.

Vicki  
The fenced in area in front of the store is no longer going to be used. We have taken it down already.

Gary Syvertsen  
General Manager  
Menard, Inc - PORTAGE MICHIGAN  
879 MALL DRIVE  
PORTAGE, MI 49024-2880  
[P] (269) 329-6086  
[F] 269-329-2024  
bckoff013519@stores.menard-inc.com

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**\*\*CONFIDENTIALITY NOTICE\*\*** This communication constitutes an electronic communication within the meaning of the Electronic Privacy Act, 18 U.S.C. § 2510, et. seq. Disclosure of this communication is strictly limited to the intended recipient. This communication and its contents and attachments, if any, are confidential and may contain information that is privileged or otherwise exempt from disclosure under applicable law. Receipt by any person or entity other than the intended recipient does not constitute waiver or loss of the confidential or privileged nature of this communication. Any review, dissemination, copying, resubmission, transfer, or distribution in any form by any person or entity other than the intended recipient is strictly prohibited. If you are not the intended recipient, please notify the sender immediately and delete any and all copies of this communication and any attachments. Failure to abide by these provisions will result in legal and equitable action taken against you, as identified in 18 U.S.C. §§ 2520-21.

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**CHESSLER CORPORATION**

P.O. BOX 2470 • PORTAGE MI 49081 • (269) 323-2441  
FAX (269) 323-3262

**PROPERTY  
MANAGERS**

February 18, 2010

Menard's  
879 Mall Dr.  
Portage, MI 49024

RE: Greenhouse

Dear Gary,

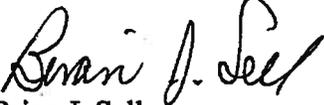
Menard's has the full support and permission to place a temporary greenhouse in its parking lot. It is understood that the greenhouse will be up from approximately April through September. It is also understood that Portage Centre, Ltd. is not liable to provide any security measures.

We require that no holes be drilled/made in the asphalt parking lot. We also require a separate liability insurance policy for this greenhouse area listing Portage Centre, Ltd. as an Additional Insured.

Please feel free to contact our office with any questions.

Sincerely,

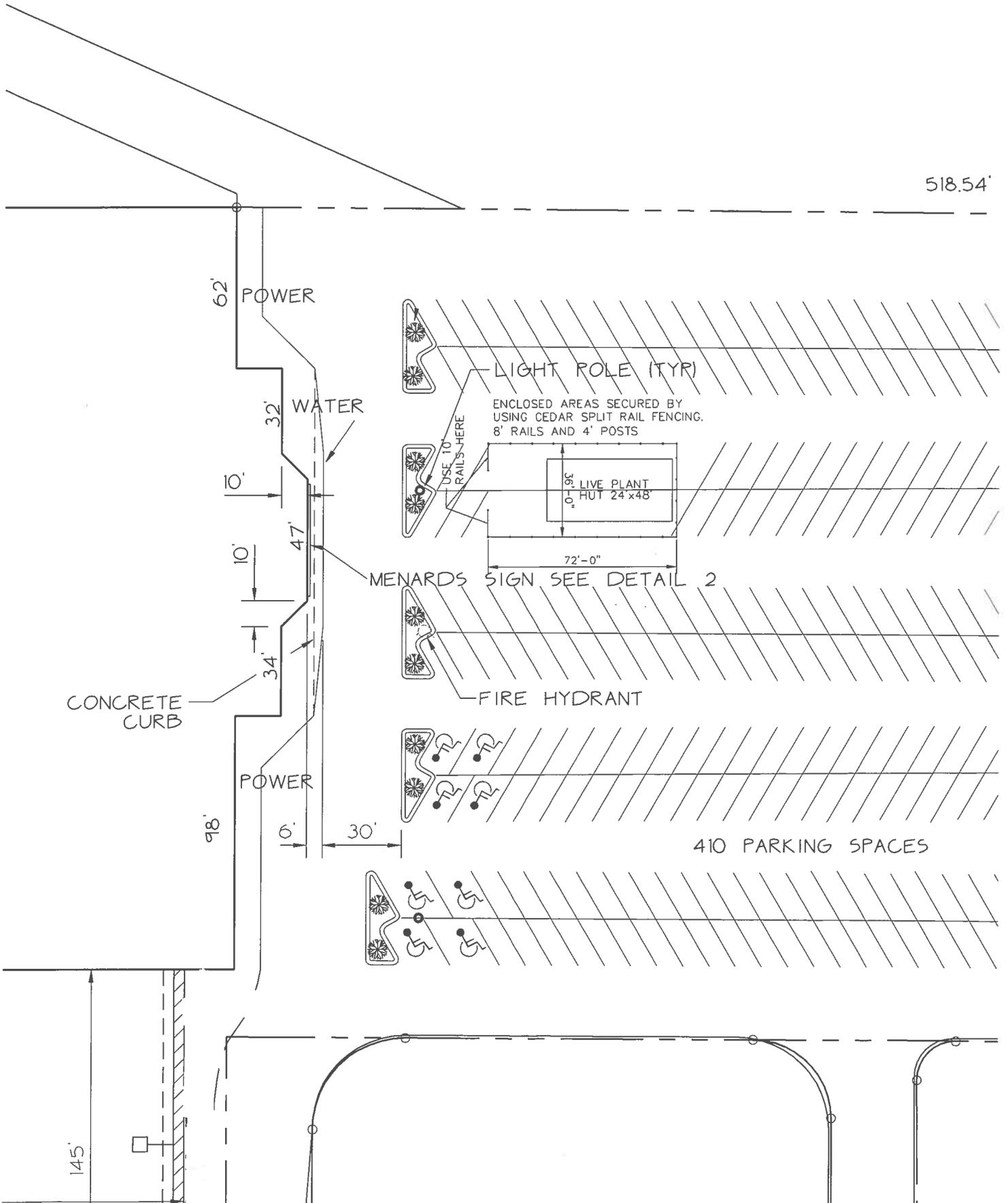
PORTAGE CENTRE, Ltd.



Brian J. Sell  
Director of Operations

cc: Douglas D. Helmer

518.54'



# GardenPORT™

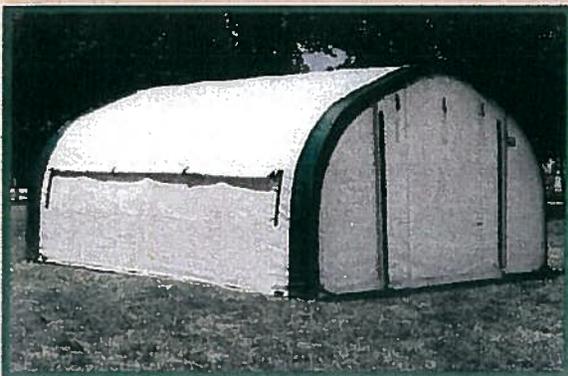
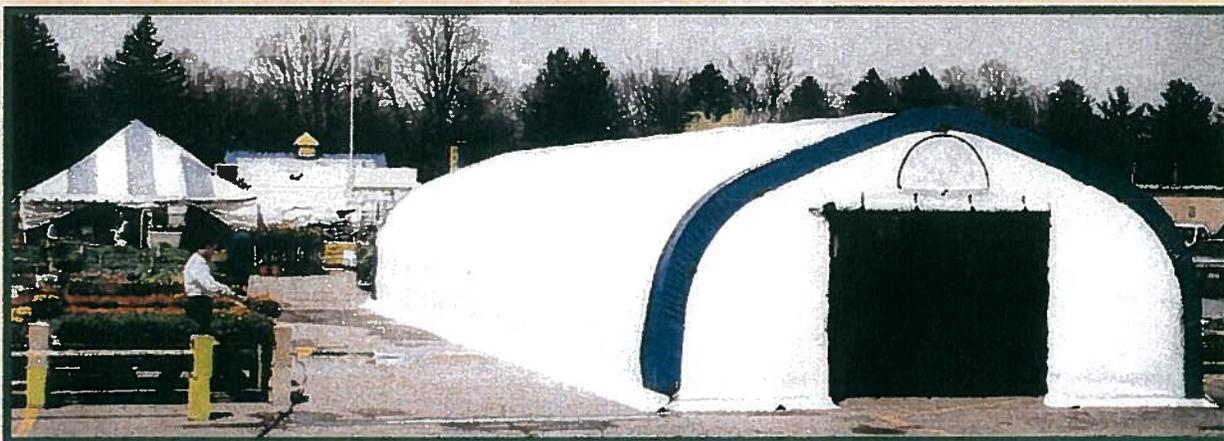
By WeatherPORT®



- **More Efficient**
- **More Attractive**
- **Slip-Fit Framework**
- **Quality Construction**
- **Strong & Durable**
- **Easy Rapid Assembly**
- **Compact Storage**
- **Multi-Season Covers**

*"I've used WeatherPORTs for over 20 years. WeatherPORTs are the fastest greenhouse merchandiser to put up... I've seen WeatherPORTs withstand 90 mile-an-hour winds."*

GAY HEIBERT, HEIBERT GREENHOUSES



*Call us for a quote on your GardenPORTs*

**Global Shelters WeatherPORT**

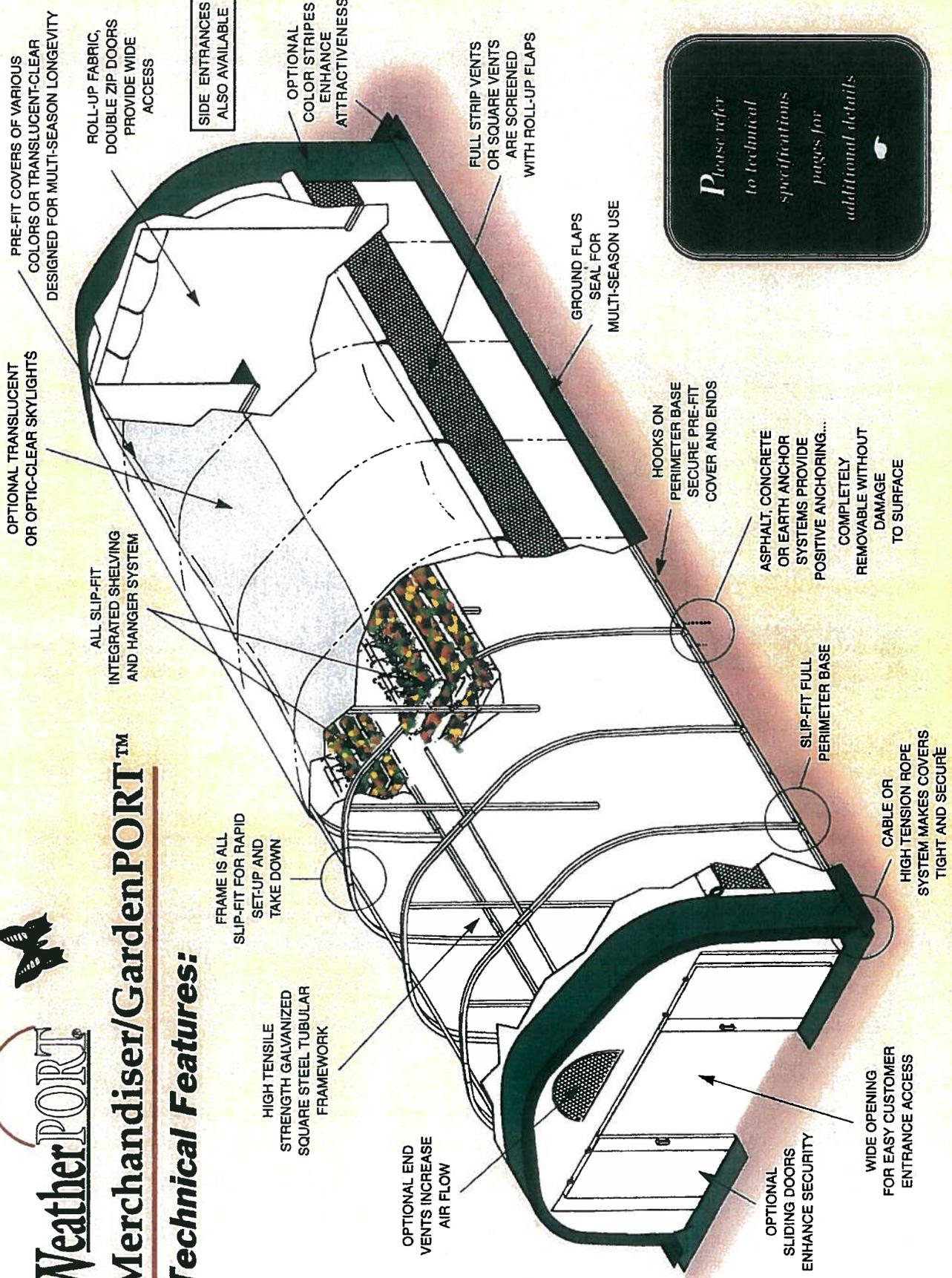
• 800-569-1804 • fax: 970-641-5309 •

[www.weatherport.com](http://www.weatherport.com)



# Merchandiser/GardenPORT™

## Technical Features:

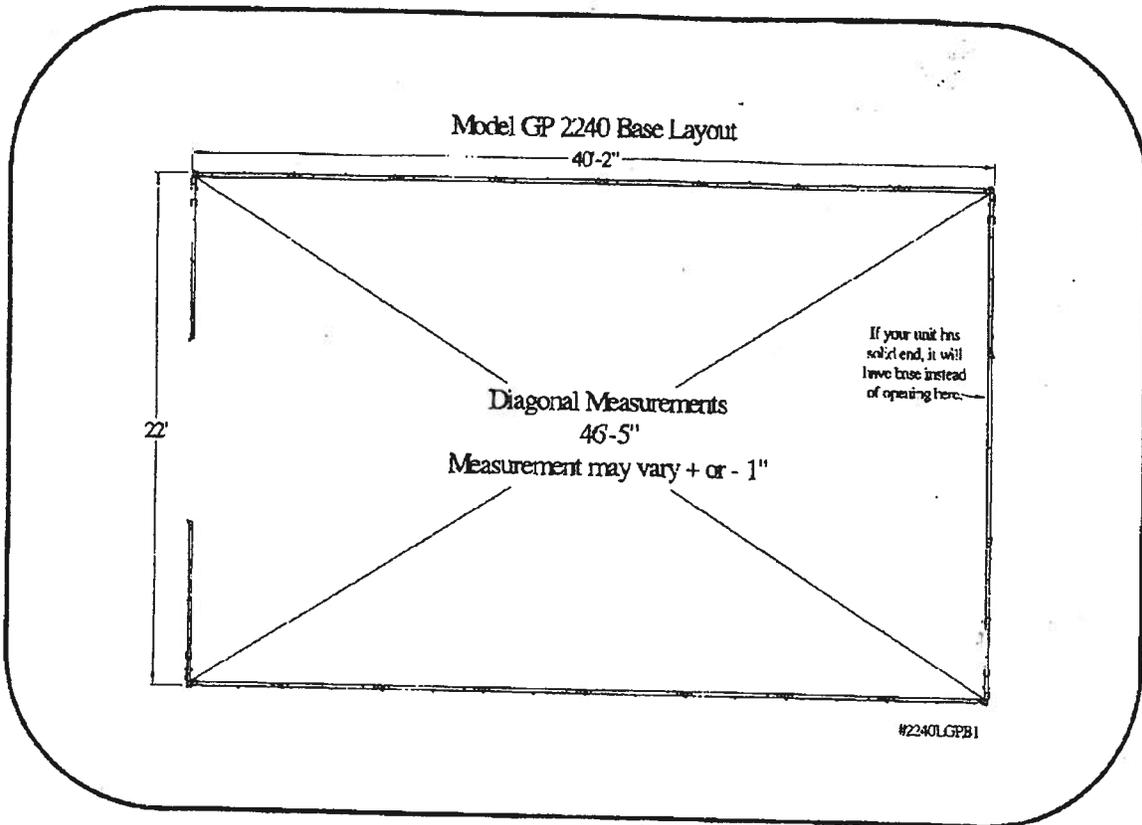


*Please refer to technical specifications pages for additional details*

• **QUALITY IS EFFICIENCY** •







2.) 3 Hansen WeatherPORT page13 Base Anchoring

A. Anchor each base section in sequence as you work around the perimeter of the unit.

*NOTE: Be sure the base is in line going down the length before you anchor it. You can use a steel tape or string as a guide by stretching it from corner to corner.*

**NOTE: YOU ARE RESPONSIBLE FOR ANCHORING THE STRUCTURE TO RESIST ALL LOADS. THE ANCHORS THAT COME WITH THIS UNIT ARE NOT TO BE ASSUMED TO BE ADEQUATE FOR THIS PURPOSE.**

If using spikes drive additional anchors (not supplied) in inside of unit beside base near corners and several places along unit length. **Secure base frame to these additional anchors** with wire. Pipe or re-bar work well for this. Use lengths as long as possible and **be sure unit is anchored absolutely secure** before proceeding!!!! Be sure these anchors do not interfere with any tie off cleats.

**Dimensions:** 20'x40'

**Arch Spacing:** 5' arch spacing

**Height:** 10' - 1.5"

**Door Height** 8' W x 7' H, with 1.163" round roll-up bars

**Manufacturer** Weatherport

### **Frame**

Galvanized Steel Frame

**Base:** 2" Square Tubing (no base in door openings)

**Arch:** 2" Square Tubing

**Spacers:** 2 rows, 1.163" round tubing, slip fit

### **Anchoring System**

- 1/2" x 18" Spikes for earth or asphalt
- Lag bolts for wood frame
- Concrete anchors, 1/2" drop in accepts 3/8" bolt

### **Cover/Curtain Fabric**

Cover is 14 oz. translucent reinforced vinyl fabric with color band on each end. Ends are 14 oz. translucent reinforced vinyl fabric

### **Standard Features**

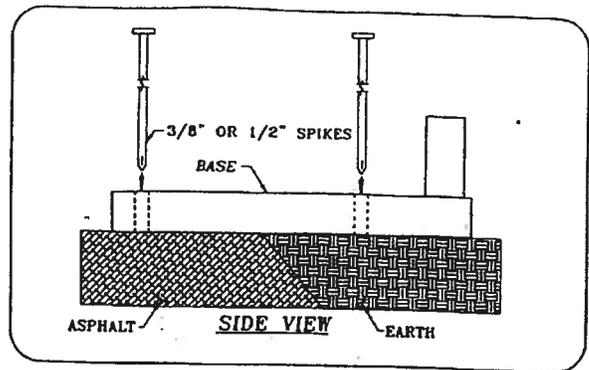
- Standard Gable Frame
- Translucent Vinyl Cover and Ends
- Full Length Strip Vent, Both Sides
- 2 Roll-up Yard Doors
- Specified Anchoring System
- Color Highlights
- Peak End Vents

### **Load Specifications**

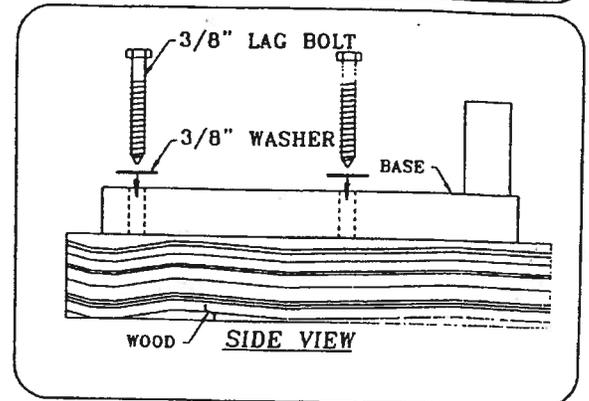
**Wind (mph):** 5' On Center 70 MPH / 2.5' On Center 90 MPH

**Snow (psf):** 5' On Center 20 PSF / 2.5' On Center 40 PSF Snow

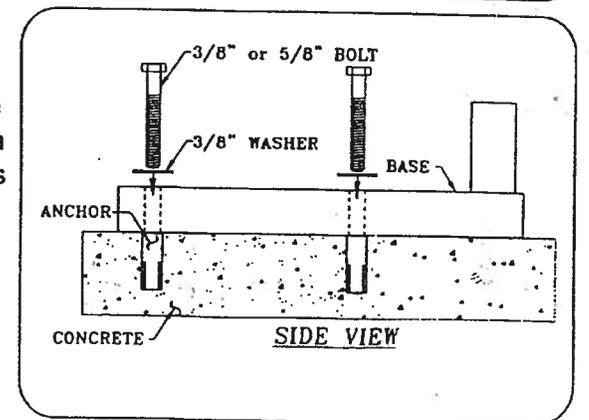
- B. Spikes / Drift pins. "Some asphalt may have to be pre-drilled" prior to driving spikes. Drive spike through each pre-drilled anchor hole in base pad. Be sure that the base pad does not move while you are doing this procedure. A spike must be set in each anchor hole. See Figure . If spikes are used earth anchors must also be used to resist uplift.



- C. Lag Bolts. Lag bolts are to be used only if the unit is being anchored to a wooden foundation. (1) Drill a small pilot hole into the wood foundation at each anchor hole location. Insert the lag bolt with a flat washer and tighten the bolt. See Figure . If lag bolts are being used earth anchors must also be used to resist uplift.

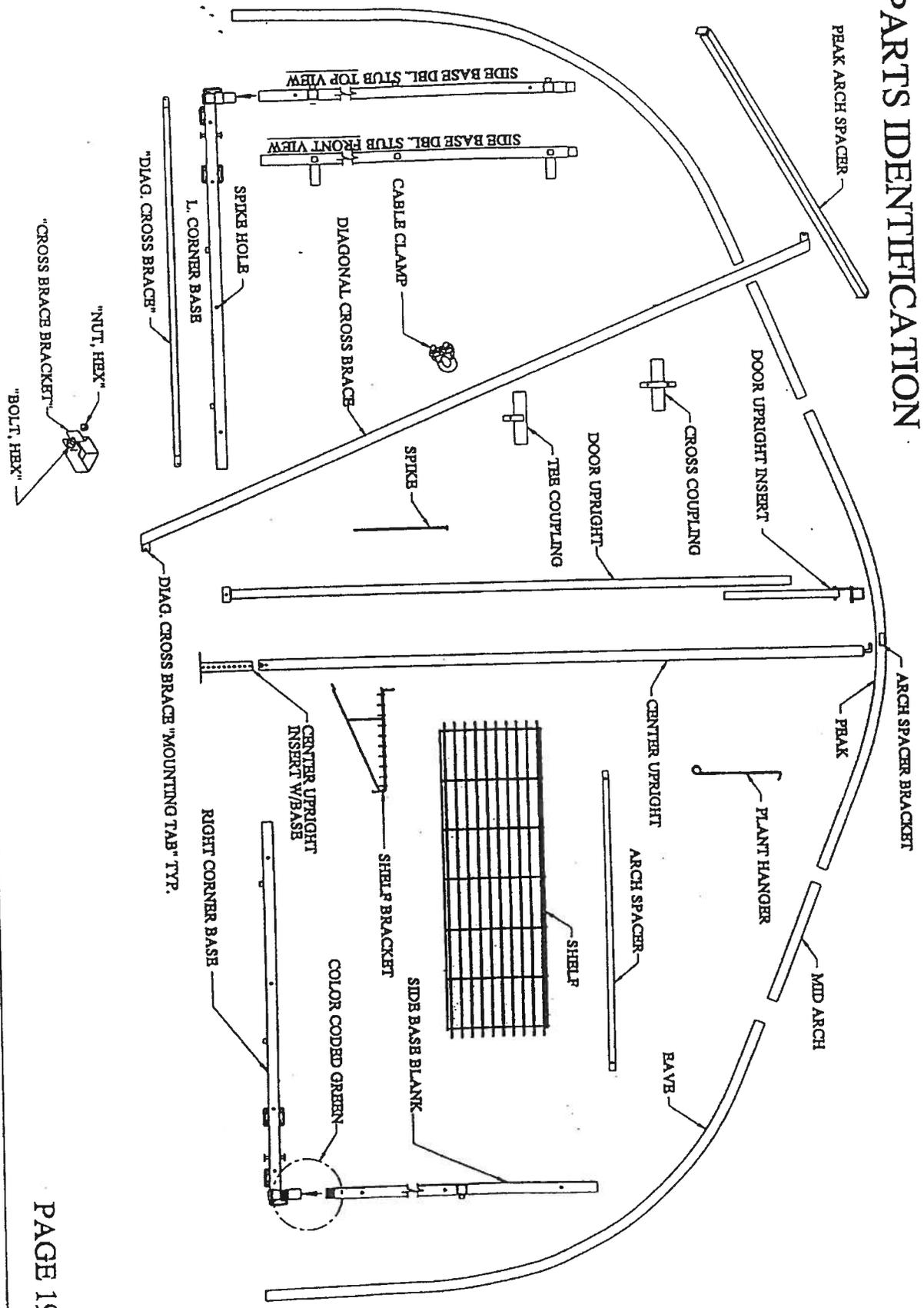


- D. Drop in Expansion Anchors. Drop-in anchors are to be used only if the unit is being anchored to a concrete foundation. (1) Working with one base pad at a time, drill the concrete at each anchor hole location. Use the base as a template. (2) Remove the base pad and clean debris from hole and where the base pad will set. Check the hole depth by placing anchor in hole and verifying proper bolt length. (3) If hole is correct depth, set anchor with set tool and hammer. Anchor must be set securely. (4) Position the base pad back in its original position and install bolts and flat washers. (5) Check to be sure base pad is aligned properly and oriented to outside of building. Tighten anchor bolts at this time. See Figure .



# PARTS IDENTIFICATION

*Weather - Part*



**TO:** Zoning Board of Appeals **DATE:** April 2, 2010  
**FROM:** Jeffrey M. Erickson, Director of Community Development  
**SUBJECT:** ZBA #09-17, Gary Syverten, on behalf of Menards, 879 Mall Drive, B-2 Community Business  
**CODE SECTION:** 42-622(D), Temporary Uses, p. 42:140.3.

**APPEAL:** Requesting a Temporary Use Permit to erect a 24-foot by 48-foot demountable greenhouse in the parking lot, and approval to store/display merchandise along the east side of the building from April 15<sup>th</sup> to October 15, 2010, and annually thereafter.

**STAFF RECOMMENDATION:** The applicant is requesting the above referenced Temporary Use Permit per the enclosed application, plans and letter of explanation. The 7.5 acre site is improved with an 81,569 square foot building and 35,090 square foot outdoor display/garden center as approved for the Menards store in 1993. In 2004, Menards received a Temporary Use Permit (ZBA 03-37) for additional seasonal outdoor display and/or storage areas annually from April through September, conditioned upon no outdoor storage of bagged goods.

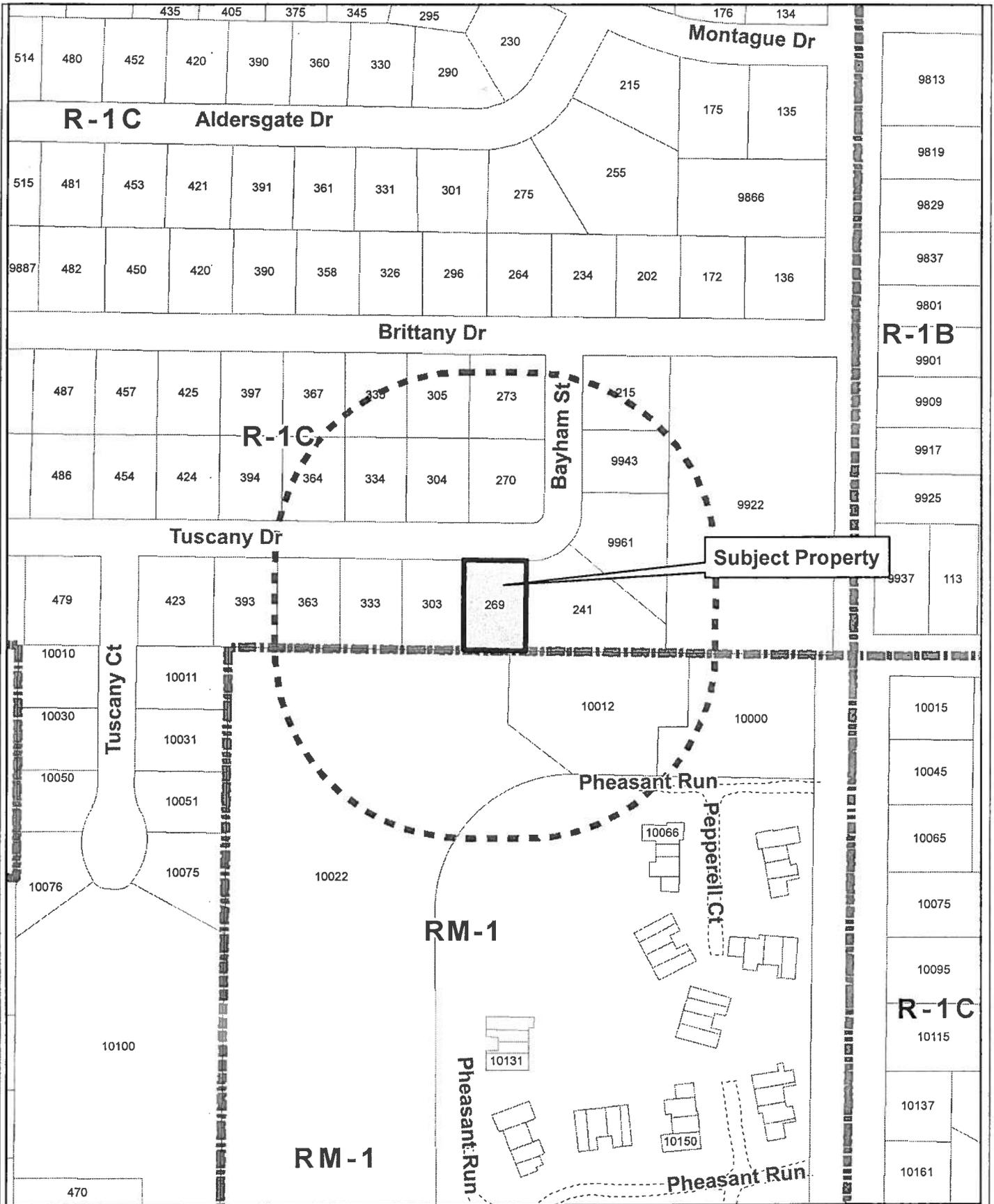
This application incorporates applicable elements from the prior Temporary Use Permit with additional elements requested by the applicant as follows:

1. Requesting to erect a 24-foot by 48-foot demountable greenhouse within a 36-foot by 76-foot fenced area in the parking lot across from the north side of the main store entrance.
2. Proposing to store/display merchandise on the sidewalk along the east side of the building under the canopy extending to the northeast corner of the building. Items proposed for display/storage include grills, lawnmowers, patio furniture, wheelbarrows, garden carts, shed displays, snow blowers, etc. (Customary accessory uses such as the standard propane gas racks that are situated south of the building entrance are permitted without a Temporary Use Permit.)
3. Both the greenhouse and storage/display are proposed annually from April 15<sup>th</sup> to October 15<sup>th</sup>.

The applicant advises the Menards store and outdoor display/garden center are significantly smaller in comparison to other Menards and restricts the store to 80 percent of the products sold at newer stores. The feasibility to expand or redevelop the Portage store remains under review, especially given current economic conditions. The proposed greenhouse will allow Menards to provide live landscaping plant sales, where only very limited seasonal plant sales are offered due to space limitations. Continuation of the outdoor storage/display area will also benefit Menards given the space limitations noted above.

The proposed Temporary Use Permit does not involve permanent structures or capital improvements. The impact on required off-street parking is minimal, the greenhouse will be surrounded by a split rail fence for safety, and the sidewalk along the east store elevation remains wide enough for orderly storage/display. Staff recommends approval conditioned upon: no storage/display of bagged goods; and annual administrative review and approval of the permit by city staff.

**PRACTICAL DIFFICULTY:** Not applicable.



**ZBA 09-18**  
**269 Tuscany Drive**

 300' Notification  
 Subject Property

RECEIVED

MAR 09 2010

CITY OF PORTAGE A Place for Opportunities to Grow

COMMUNITY DEVELOPMENT Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date March 9th, 2010
Name of Applicant Jud & Darcy Hoff
Applicant's Address 269 Tuscany Dr.
Phone No. 329-0249

Address of the Property that is the subject of this Application:
Street Address 269 Tuscany Dr. Portage MI 49024
For Platted Property: Lot 100 of Forrest Hills #5 Plat

[If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.]
Applicant's interest in Property that is the subject of this Application: Owner

Application Fee 135 (Residential Uses) (All Other Uses)

Type of Appeal (Please check one of the following bold choices and provide the requested information):
[X] Variance from Zoning Ordinance: Article Section 42 Paragraph 350
Regarding: Use Area Yards
Setbacks X Parking Other

Reason for Request (Also complete page 2 of application): rear setback variance for kitchen remodeling addition

Appeal of Administrative Decision: Article Section Paragraph
Reason for Request:

Interpretation of the Zoning Ordinance: Article Section Paragraph
Reason for Request:

A Temporary Permit for: Building Use Other Approval
Article Section Paragraph
Reason for Request:

FOR STAFF USE

Table with 3 columns: Application Number (09-18), Filing Date (3/8/2010), Tentative Hearing Date (4/12/2010). Row 2: Previous Application Filed Regarding This Property: N/A

### Reason For Variance

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)

Please see attached sheet

2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)

''

3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)

''

4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to other property owners in the area? (Attach additional sheets if needed.)

''

5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area. (Attach additional sheets if needed.)

''

6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area. (Attach additional sheets if needed.)

''

7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)

''

8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

''

  
Signature of Applicant

3/9/2010  
Date

## Zoning Board of Appeals Application Information

### Reason for Variance

- 1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shap, topography, or natural features that prevent compliance with the Zoning Ordinance.**

The initial builder placed the home closer to the rear lot line than any other homes in the neighborhood. When the house was built, there were not homes on the lots to the left or right. There is a much larger front lawn area than other homes on Tuscany Dr. An aerial photo (attached) will show the setback of the house towards the rear lot line.

- 2. Are the physical characteristics you explained above unique and not shared by neighboring properties ?**

Yes. Neighboring homes are 20-40 feet further forward in their lots than our house. The front of our house is at or near the rear end of the house at 303 Tuscany Dr. (Aerial photo should show this). By our home being placed on its current site by the previous owners/builder, we unfortunately reach the Zoning Ordinance (40 ft from rear lot line).

- 3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance ?**

No. The current kitchen space is smaller and not proportionate to the size/spacing of the rest of the house and space is limited. This addition is for kitchen purposes only. The proposed area to most effectively and efficiently utilize the new space requires a Variance of 6 ft into the 40 ft Zoning Ordinance from the rear back lot line.

- 4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to the other property owners in the area ?**

The requested variance is for 6 ft within the set back requirements from the rear lot line. the depth determined in our plans would allow for the best use of the space for the kitchen design and layout. If our house was built on the lot as other houses are we would not be in violation of this ordinance but unfortunately we are 6 feet in to the 40ft. set back requirement. A lesser variance would not allow us to gain the additional space we are seeking at this time. We have looked at many different variations of how this addition could be structured but expanding the width will disrupt the width and ceiling (which is different style than kitchen).

- 5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area.**

Addition will not block views of adjacent properties. Presently on our property line to the right is a line of 30-40ft pine trees that is in between our home and 303 Tuscany. This addition would

not stick out obtusely. To the rear of our home is currently a green space that is owned by Pheasant Run. At this time there are no plans to develop the property at current time. The apartment/condo complex had plans from 1970's as to what the potential property could house but there have been no further expansion since the initial condo/apartment units were built. If by chance plans come to fruition in the future, this 6 ft variance request would not be detrimental to the development of another condo/apartment unit. The home to the left of us and their views would not adversely be impacted or obstructed by our addition or the 6 ft variance request. It is important to us that we respect not only the law requirements but also the privacy and property of our neighbors. We feel this addition will add to overall property values around us as we are investing further into our house and our community.

- 6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area.**

The request for a 6 ft Variance within the 40 feet set back requirement would not result in any increased traffic congestion or noise. This is a kitchen addition only in the back of our home and there is no traffic back there. We also have a fenced in yard which limits the foot traffic between yards. There are no other concerns related to increased fire hazards or anything that would be detrimental to our property or to the neighboring properties. We are not in a flood area and this proposed addition would not affect this concern.

- 7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner ?**

Previous property owner constructed the home. This request for 6ft variance is because the current home is set back 20-40 feet deeper in the lot than other homes in the plat.

- 8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance.**

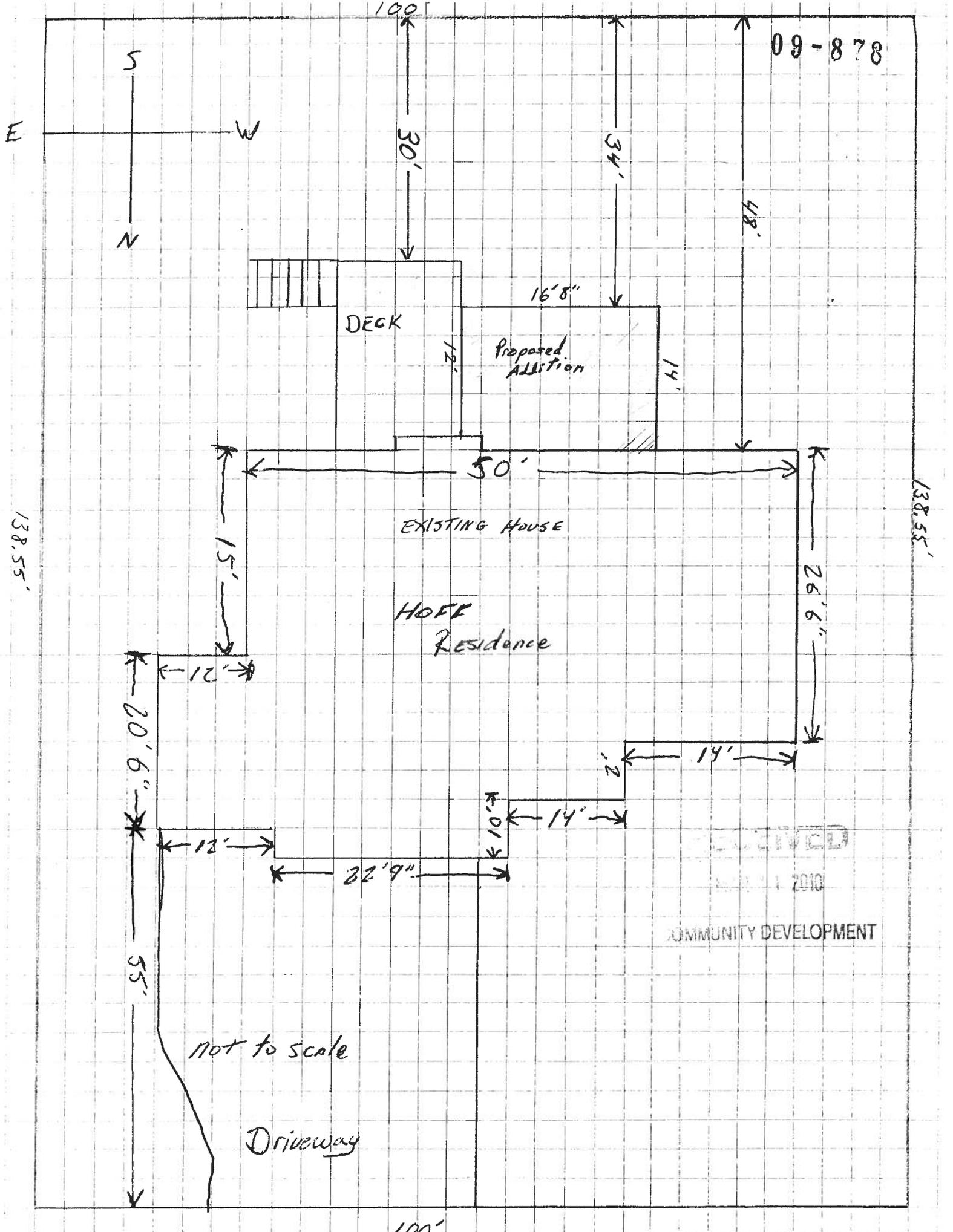
We are requesting 6 ft into the 40ft set back requirement. We want to uphold the spirit of the ordinance which is to have 40ft from the rear back lot line and do feel that only asking for 6 ft will not dilute the integrity of the spirit of the ordinance. The kitchen remodeling/addition and the 6 ft variance request will not diminish the property value, obstruct or detract from our neighboring homes, or diminish their views or enjoyment of their backyards. This addition will not be unsightly or impact any traffic, congestion, or noise concerns. We believe this request for 6 ft will allow for us to invest further in our home and our future in the Portage community.

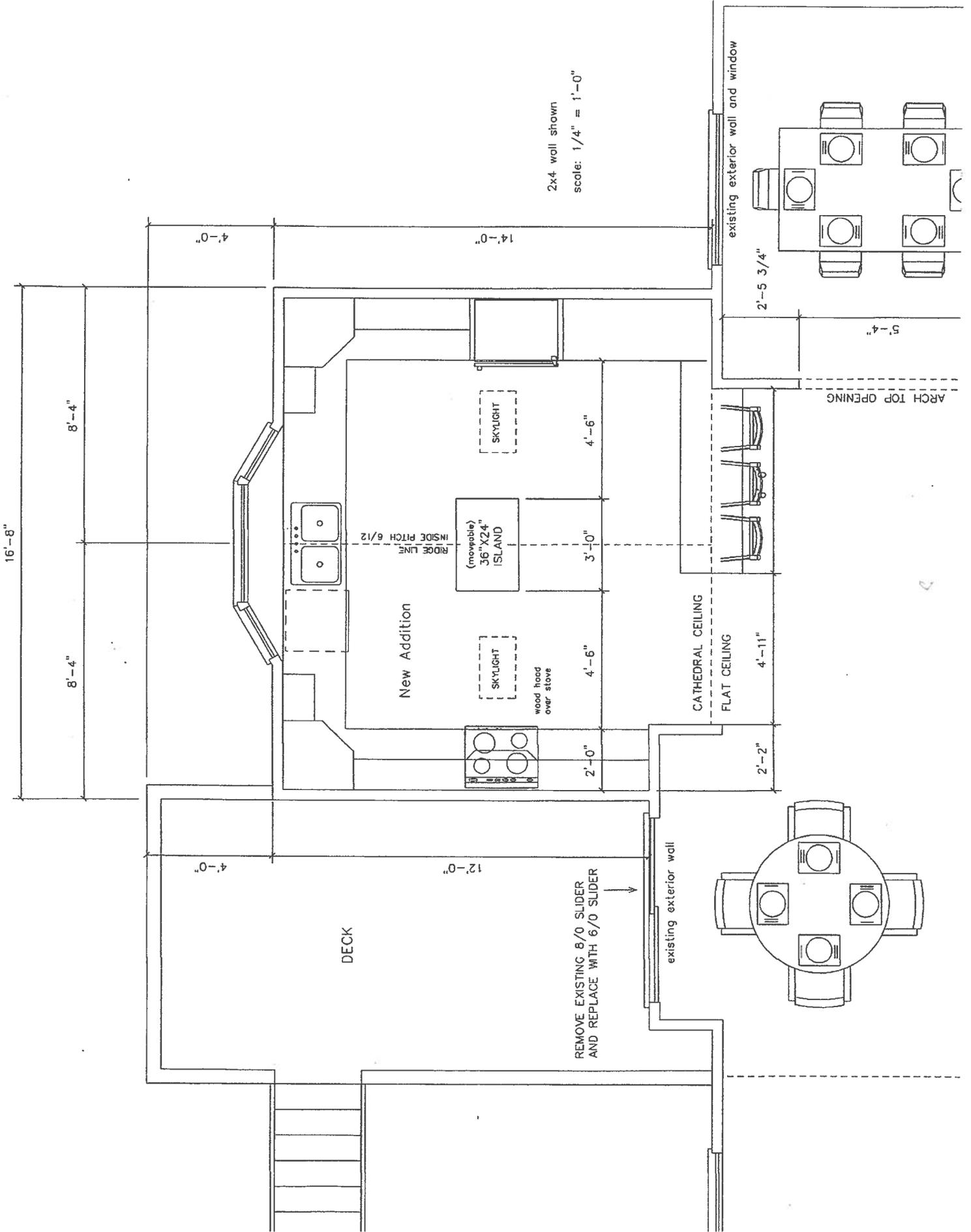
Thank you for your time,

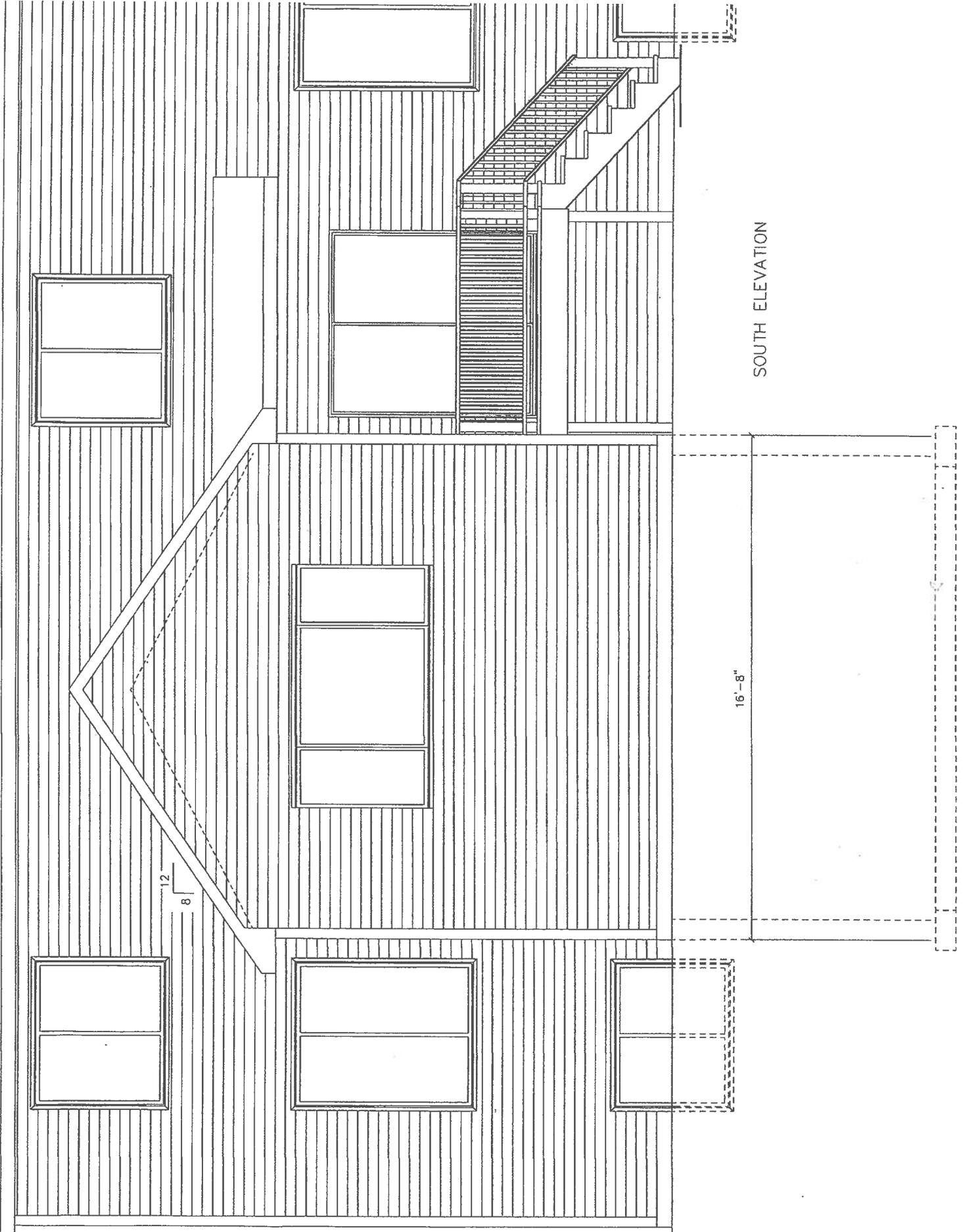
Darcy and Jud Hoff

269 Tuscany Dr.

329-0249





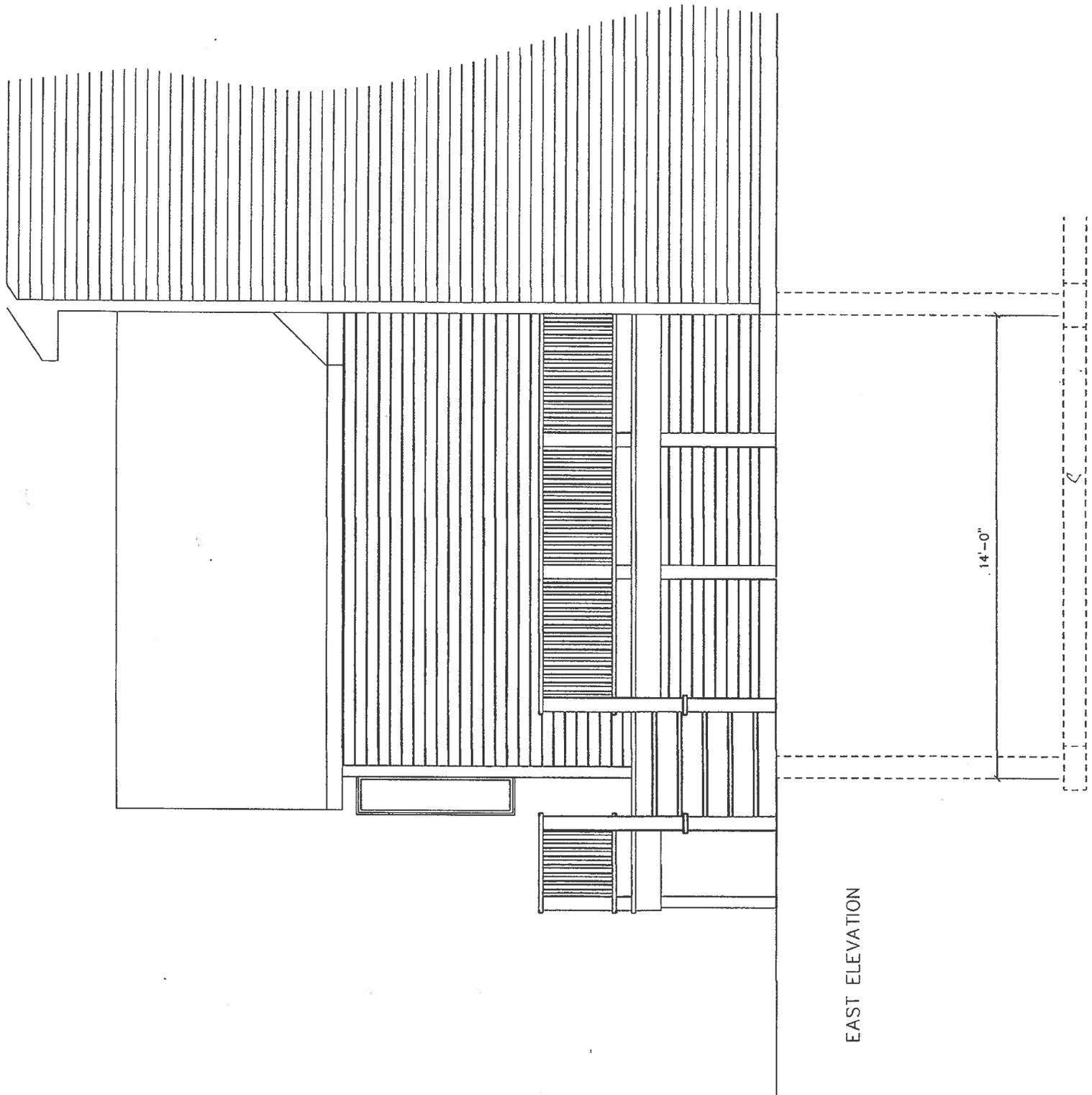


SOUTH ELEVATION

16'-8"

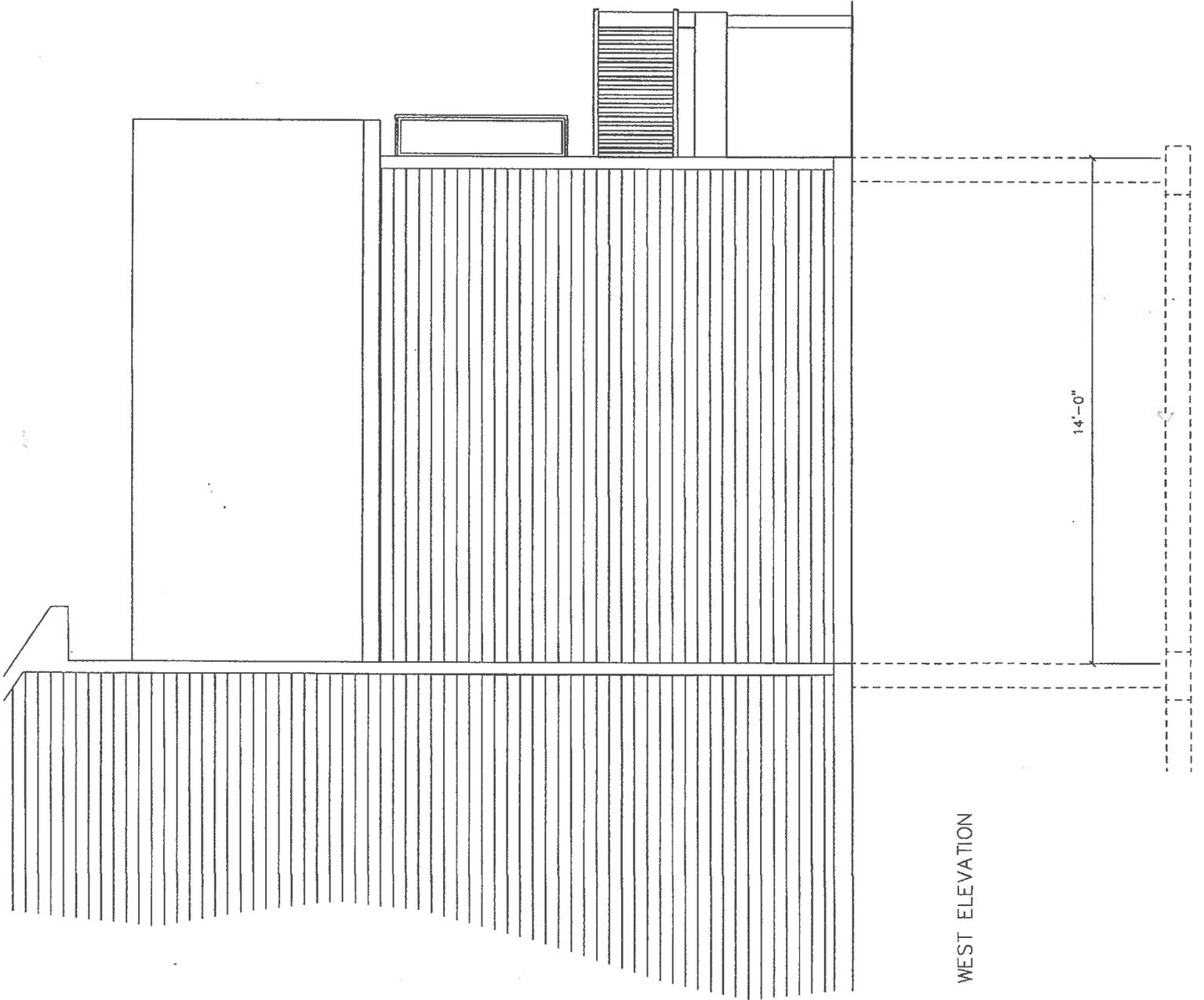
12

8



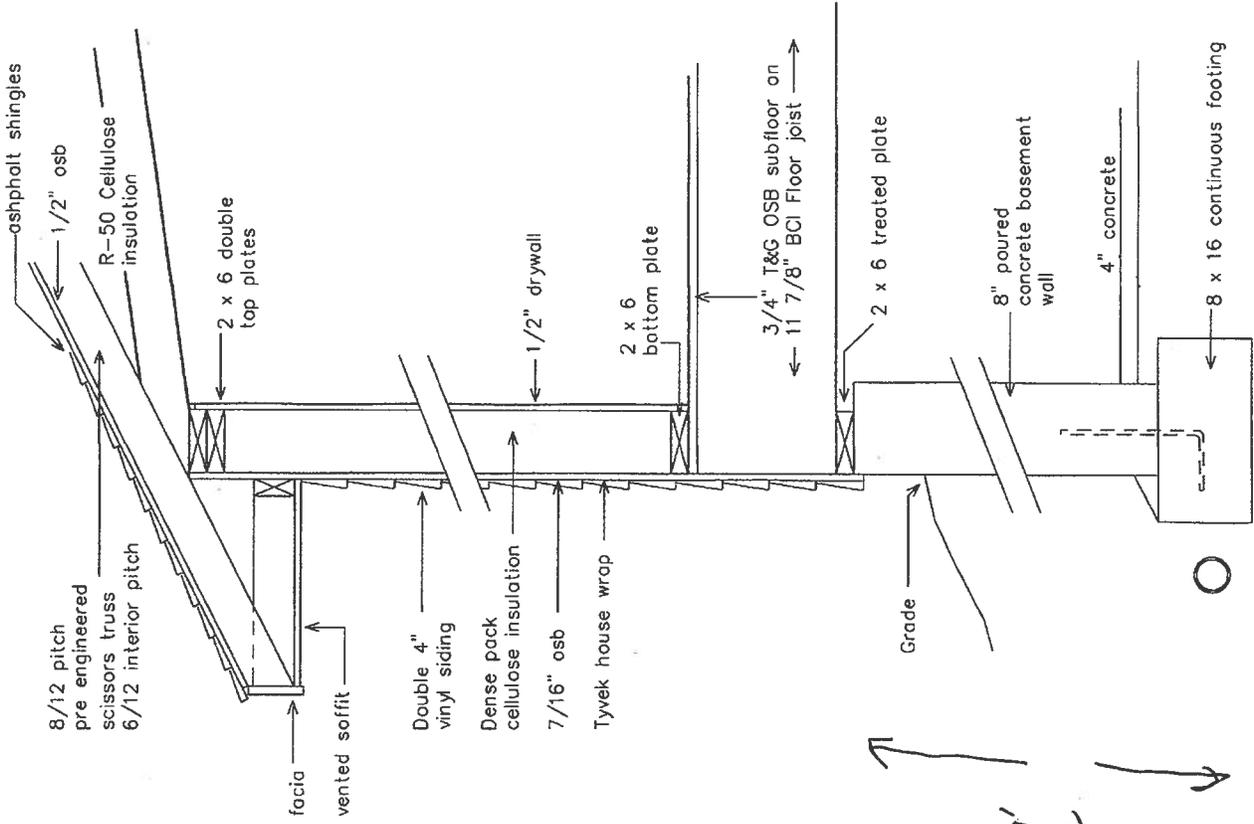
EAST ELEVATION

14'-0"



WEST ELEVATION

14'-0"



8/12 pitch  
pre engineered  
scissors truss  
6/12 interior pitch

asphalt shingles  
1/2" osb  
R-50 Cellulose  
insulation

2 x 6 double  
top plates

facia  
vented soffit

Double 4"  
vinyl siding  
Dense pack  
cellulose insulation  
7/16" osb  
Tyvek house wrap

1/2" drywall

2 x 6  
bottom plate

3/4" T&G OSB subfloor on  
11 7/8" BCI Floor joist

Grade

2 x 6 treated plate

8" poured  
concrete basement  
wall

4" concrete

8 x 16 continuous footing

*basement  
wall  
fig*

WALL SECTION

**TO:** Zoning Board of Appeals **DATE:** April 2, 2010  
**FROM:** Jeffrey M. Erickson, Director of Community Development  
**SUBJECT:** ZBA #09-18; Jud and Darcy Hoff, 269 Tuscany Drive; R-1C, One Family Residential  
**CODE SECTION:** 42-350, Schedule of Regulations, p. CD 42:88  
**APPEAL:** Requesting a six-foot variance to construct a 233 square-foot kitchen addition 34 feet from the rear (south) property line where a minimum 40 foot setback is required.

**STAFF RECOMMENDATION:**

The applicants are requesting the above variance per the enclosed application, letter of explanation, site sketch and related materials. The 13,850 square-foot lot is improved with a 2,332 square-foot dwelling and 741 square-foot attached garage. Properties to the east, west and north are developed and zoned R-1C, One Family Residential. The property to the south is zoned RM-1, Multiple-family Residential, and is primarily undeveloped open space, while the land area to the southwest is developed with the Pheasant Run clubhouse building and residential condominiums.

The dwelling, built in 1996, is setback 50 feet from Tuscany Drive, where a minimum 30-foot setback is required. Other dwellings on the south side of Tuscany Drive are built closer to the road in accordance with the minimum front yard setback. The applicants, who purchased the property in 1999, propose a 233 square foot (14' x 16'8") addition for a kitchen remodel/expansion project located where the current deck is off the rear of the dwelling. A new open deck that meets the required setback will also be constructed to the west of the proposed addition. The applicants indicate the current kitchen is small in relation to the size of the house, and an addition of a smaller size is not practical given the existing floor plan and house layout. While the property to the south could be further developed with multiple-family residential buildings, there are no long-term plans for additional development of the Pheasant Run "nature preserve" area in the future. Finally, the applicant notes that the variance requested is minimal and no adverse impact should result from the project.

While a smaller size kitchen addition could be constructed in conformance with the Zoning Code, the applicants note the size of such addition would not be practical. If the house were built closer to the front property line by the original owner as permitted, no variance would be needed to accommodate the project. In addition, the variance request is minimal, should have no impact on the multiple-family residential property to the south, and will not impair the purpose and intent of the Zoning Code. If the Board finds a practical difficulty noted below exist and are relevant, the requested variance can be authorized.

**PRACTICAL**

**DIFFICULTY:** Location of the dwelling on the lot; Design/floor plan of the dwelling.

**SUGGESTED NON-USE VARIANCE MOTION FORM**

Mr. Chairman:

I move, in regard to ZBA # \_\_\_\_\_, the application by \_\_\_\_\_

for a variance from \_\_\_\_\_

**be:**

**a. granted** for all of the following reasons:

- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include \_\_\_\_\_;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right to \_\_\_\_\_, which is similar to that possessed by other properties in the same zoning district and in the vicinity;
- 3a. The immediate practical difficulty causing the need for the variance request was not created by the applicant;
- 4a. The variance will not be detrimental to adjacent property and the surrounding neighborhood, and;
- 5a. The variance will not materially impair the intent and purpose of the zoning ordinance.

**-OR-**

**b. denied** for one of more of the following reasons:

- 1b. There are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district;
- 2b. The variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available such as \_\_\_\_\_;
- 3b. The immediate practical difficulty causing the need for the variance request was created by the applicant;
- 4b. The variance would be detrimental to adjacent property and the surrounding neighborhood, and;
- 5b. The variance would materially impair the intent and purpose of the zoning ordinance.

**c. In addition**, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, **and that action of the Board be final and effective immediately.**



**ZONING BOARD OF APPEALS APPLICATION**

**FOR COMPLETION BY APPLICANT**

Application Date 3/10/10  
 Name of Applicant ARANEAE INC. - JOHN CARROLL [Signature]  
 Print Signature  
 Applicant's Address 29350 WALL ST. Phone No. 248-344-8840  
 Name of Property Owner (if different from Applicant) MEYER C WEINER CO.  
 Address 700 MALL DR, PORTAGE MI 49002 Phone No. \_\_\_\_\_  
 Address of the Property that is the subject of this Application:  
 Street Address 6024 S. WESTNEDGE  
 For Platted Property: Lot \_\_\_\_\_ of \_\_\_\_\_ Plat \_\_\_\_\_  
 [If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.]  
 Applicant's interest in Property that is the subject of this Application: SIGN INSTALLER

Application Fee \_\_\_\_\_ (Residential Uses) 330.00 (All Other Uses)

Type of Appeal (Please check one of the following **bold choices** and provide the requested information):  
 **Variance from Zoning Ordinance:** Article ALI 11 Section 42-552 Paragraph \_\_\_\_\_  
 Regarding: Use \_\_\_\_\_ Area X Yards \_\_\_\_\_  
 Setbacks \_\_\_\_\_ Parking \_\_\_\_\_ Other \_\_\_\_\_

Reason for Request (Also complete page 2 of application): REMOVE EXISTING 5' NEON LETTERS W/ BLUE FACES + REPLACE WITH 5' LED LETTERS WITH WHITE FACES. - NO CHANGE IN SIZE

**Appeal of Administrative Decision:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_  
 Reason for Request: \_\_\_\_\_

**Interpretation of the Zoning Ordinance:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_  
 Reason for Request: \_\_\_\_\_

**A Temporary Permit for:** Building \_\_\_\_\_ Use \_\_\_\_\_ Other Approval \_\_\_\_\_  
 Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_  
 Reason for Request: \_\_\_\_\_

**FOR STAFF USE**

Application Number: <u>09-19</u>	Filing Date: <u>3/15/2010</u>	Tentative Hearing Date: <u>4/12/2010</u>
Previous Application Filed Regarding This Property: <u>ZBA 96-52, May 1997</u>		

**Reason For Variance**

- 1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)

SEE ATTACHED LETTER

- 2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)

SEE ATTACHED LETTER

- 3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets is needed.)

SEE ATTACHED LETTER

- 4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to other property owners in the area? (Attach additional sheets if needed.)

SEE ATTACHED LETTER

- 5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area. (Attach additional sheets if needed.)

SEE ATTACHED LETTER

- 6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area. (Attach additional sheets if needed.)

SEE ATTACHED LETTER

- 7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)

SEE ATTACHED LETTER

- 8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

SEE ATTACHED LETTER

  
Signature of Applicant

3/18/10  
Date



09-10000015

29350 Wall Street  
Wixom, MI 48393-3528  
P: 248-344-8840  
F: 248-344-8841  
W: [www.araneaegroup.com](http://www.araneaegroup.com)

March 10, 2010

City of Portage  
Zoning Board of Appeals  
7900 S. Westnedge Ave.  
Portage, MI 49002

**RECEIVED**

**MAR 15 2010**

**COMMUNITY DEVELOPMENT**

Re: Sign Variance

To Whom It May Concern:

On behalf of Old Navy and Walton Signs, we are submitting a request for a sign variance for the Old Navy store, 6024 S. Westnedge Ave.

Old Navy would like to remove the existing 5' Neon channel letters with blue faces and replace with new 5' LED channel letters with white faces. The size of the sign will remain the same, the only visual difference is the color of the faces. The change to LED letters is to facilitate energy savings and efficiency.

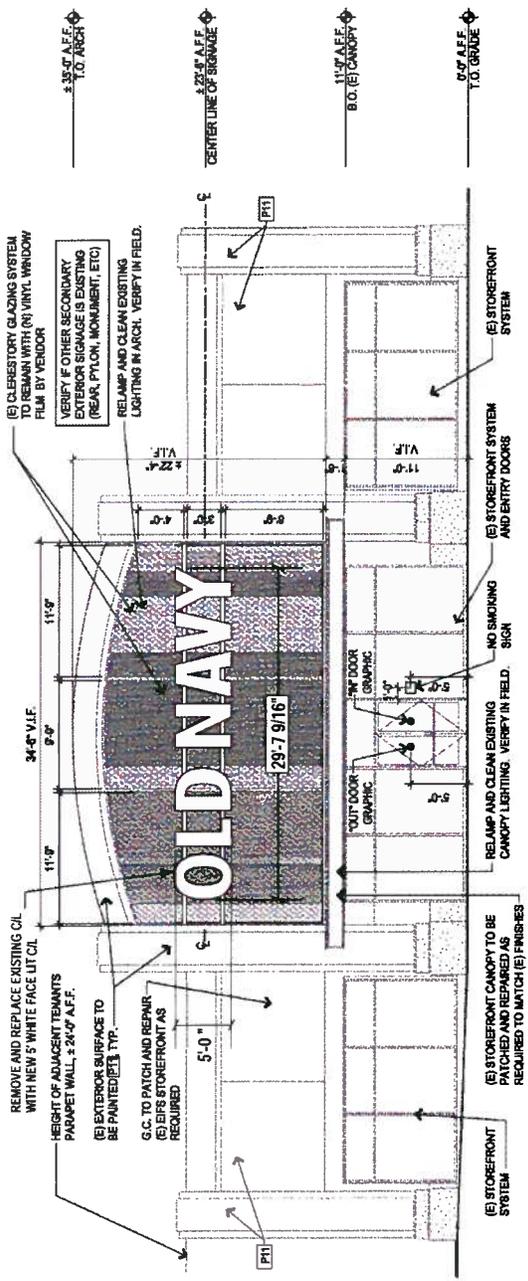
This change shall have no impact on neighboring businesses.

If you have any questions, please do not hesitate to contact me by phone at (248)-344-8840 or by email at [jcarroll@araneaegroup.com](mailto:jcarroll@araneaegroup.com)

Respectfully,

John Carroll  
Aranae, Inc.





**A** FRONT ELEVATION  
SCALE: 3/32" = 1'-0"

**SURVEY NOTE:**  
FIELD SURVEY REQ'D PRIOR  
TO MANUFACTURE



PHOTO SURVEY - EXISTING CHANNEL LETTERS (VIEW 2)  
N.T.S.



PHOTO SURVEY - EXISTING CHANNEL LETTERS (VIEW 1)  
N.T.S.



**WALTON**  
SIGNAGE  
1201 N. W. 10TH ST.  
PORTAGE, MI 49002  
J.R.  
11.23.09  
(616) 225-3400 FAX (616) 225-3403

OLD NAVY #5882  
6024 S WESTMEADE AVE.  
PORTAGE, MI 49002  
MSB  
11.23.09

This is an original drawing created by Walton. It is submitted for your personal use. However, it shall not be used for any other project without the written permission of Walton. It may be used for other projects, but you must acknowledge the original creator, Walton, and not reproduce the drawing without your organization's, that it is to be reproduced, used, copied or published in any fashion.

R1) 12/22/09 review RCP - MSB  
R2) 2/26/10 review sign A - MSB  
HMO - Navy (US SITES) 2010\_Old\_Navy\_Marketing\_WHM\_Percentage 5882DESIGN117391.rvt

Signage is the intellectual property of Walton, Inc. All other trademarks are the property of their respective owners. No part of this drawing may be reproduced without the written permission of Walton, Inc. All other trademarks are the property of their respective owners. This sign is intended to be installed in accordance with the requirements of Article 500 of the National Electrical Code and other applicable local codes. This includes proper grounding and bonding of the sign.

Buyer: \_\_\_\_\_ Date: \_\_\_\_\_  
Production: \_\_\_\_\_ Date: \_\_\_\_\_

117391  
Sheet 1 of 7

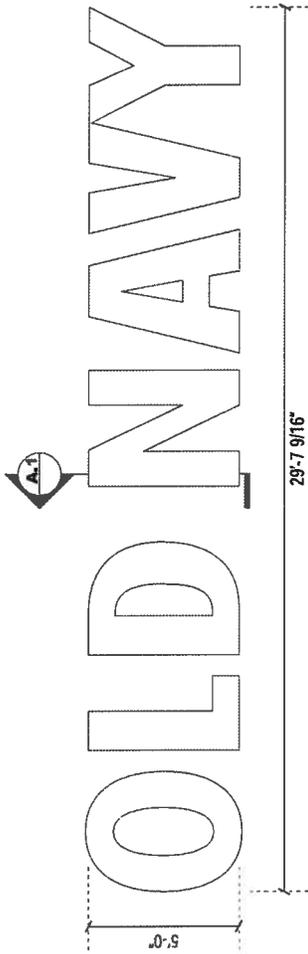
ASM



017391

SIGN AREA	QUANTITY
148.1 SQ.FT	ONE (1)

LED: 10 AMPS / 120 VOLTS  
(1) 20A CIRCUIT



**A** CUSTOM FABRICATED "OLD NAVY" FACE-LIT WHITE FACE CHANNEL LETTERS - FRONT ELEVATION  
Scale: 1/4" = 1'-0"

SCOPE OF WORK:

- REMOVE ONE (1) EXISTING SET OF CHANNEL LETTERS
- MANUFACTURE AND INSTALL ONE (1) SET NEW 5' WHITE FACE LIT CHANNEL LETTERS

ASM



12/9/10



OLD NAVY #5882  
6024 S WESTNEDGE AVE.  
PORTAGE, MI 49002  
JR MSB  
11.23.09

This is an unapproved drawing created by Walton. It is submitted for your personal use. However, it shall in all cases remain the property of Walton. It may be used in connection with the project being drawn for you by Walton, but not otherwise. You are not to make your responsibility over to the independent work, support or exhibited in any fashion.

R1/12/2009 RCP - MSB  
R2/2/2010 REVISED SIGNAGE - MSB

Drawings will be manufactured with 1/8" Min. AC. No Primary dimensional tolerances to the significant final work to be done in accordance with the purchase agreement stipulated herein. In case of variations and this drawing, the drawings shall prevail.

Buyer: Date: Production: Date:

This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and all other applicable local codes. This indicates proper grounding and bonding at the sign.

117391  
Sheet: 2 of 7

**TO:** Zoning Board of Appeals **DATE:** April 2, 2010

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** ZBA #09-19; Araneae Inc., on behalf of Old Navy, 6024 South Westnedge Avenue; B-2, Community Business

**CODE SECTION:** 42-552(H) Signs permitted in B-2, Community Business Districts, p. CD 42:131  
42-622(B)1, Variances, p. CD 42:140.2

**APPEAL:** Requesting a 48 square foot variance to replace a nonconforming 148 square-foot wall sign.

**STAFF RECOM-  
MENDATION:**

The applicant is requesting the above variance per the enclosed application, letter of explanation, sign sketch, and photographs. The Old Navy store has 181 feet of building wall along West Milham Avenue and is permitted up to 100 square feet of wall signage. The Board granted a variance in 1997 permitting 175 square feet of wall signage on the east elevation and the applicant subsequently erected the existing 148 square-foot "Old Navy" wall sign. The building is setback approximately 460 feet from South Westnedge Avenue, and approximately 50 feet from West Milham Avenue.

The applicant's initial proposal entailed a face change only to the channel letters, but now proposes removal of the existing blue-faced neon channel letters and replacement with white-faced LED channel letters of the same size. The city amended the sign regulations in 2003 for buildings with 200 feet or more of wall that are setback 300 feet or more from a public (or private) street. The amendment accommodated identification requirements of larger developments and took into account prior/comparable variances. While Old Navy and other businesses at Southland Mall and other locations have received wall sign variances, these were granted prior to the amendment, involved a reduction in degree of nonconformity, and/or was based on other specific circumstances. These variances were referenced during consideration of the recently denied ABC Warehouse wall sign request.

West Milham Avenue and South Westnedge Avenue afford good visibility. Conforming alternatives are available and conformance with the Zoning Code is accordingly encouraged. Should the Board, however, find a practical difficulty exists to justify a larger wall sign than is permitted, the variance can be authorized.

**PRACTICAL  
DIFFICULTY:**

Significant building setback and obstructed visibility from buildings previously cited by Board; None noted by staff.

**SUGGESTED NON-USE VARIANCE MOTION FORM**

Mr. Chairman:

I move, in regard to ZBA # \_\_\_\_\_, the application by \_\_\_\_\_

for a variance from \_\_\_\_\_

**be:**

**a. granted** for all of the following reasons:

- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include \_\_\_\_\_;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right to \_\_\_\_\_, which is similar to that possessed by other properties in the same zoning district and in the vicinity;
- 3a. The immediate practical difficulty causing the need for the variance request was not created by the applicant;
- 4a. The variance will not be detrimental to adjacent property and the surrounding neighborhood, and;
- 5a. The variance will not materially impair the intent and purpose of the zoning ordinance.

**-or-**

**b. denied** for one of more of the following reasons:

- 1b. There are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district;
- 2b. The variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available such as \_\_\_\_\_;
- 3b. The immediate practical difficulty causing the need for the variance request was created by the applicant;
- 4b. The variance would be detrimental to adjacent property and the surrounding neighborhood, and;
- 5b. The variance would materially impair the intent and purpose of the zoning ordinance.

**c. In addition**, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, **and that action of the Board be final and effective immediately.**