

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

# ZONING BOARD OF APPEALS

March 14, 2011

# CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, March 14, 2011

(7:00 pm)

Portage City Hall  
Council Chambers

## PLEDGE OF ALLEGIANCE

## APPROVAL OF MINUTES:

- \* February 14, 2011

## OLD BUSINESS:

## NEW BUSINESS:

- \* ZBA# 10-12, 408 Schuring Road: KAB CNC Creations, LLC (Kevin and Amy Braat), is requesting a variance from the home occupation standards to allow the operation of a woodcraft home-based business in a detached accessory building.
- \* ZBA# 10-13, 3810 West Centre Avenue: Sign Art, on behalf of the Center for Vein Restoration, is requesting a variance to replace the sign panels on an existing nonconforming freestanding sign.
- \* ZBA# 10-14, 741 West Kilgore Road: Donna Leversee is requesting approval to operate a group child care home on the property.

## STATEMENT OF CITIZENS:

## ADJOURNMENT:

## MATERIALS TRANSMITTED

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

**CITY OF PORTAGE ZONING BOARD OF APPEALS**  
Minutes of Meeting – February 14, 2011

**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. Two people were in the audience.

**MEMBERS PRESENT:** Timothy Bunch, David Felicijan, Henry Kerr, Rob Linenger, Betty Schimmel, Marianne Singer, Daniel Rhodus

**MEMBERS EXCUSED:** Donald Mordas

**MEMBERS ABSENT:** Lowell Seyburn

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

**APPROVAL OF THE MINUTES:** Linenger moved and Singer seconded a motion to approve the January 10, 2011 minutes as submitted. Upon voice vote, motion was approved 7-0.

**NEW BUSINESS:**

**ZBA# 10-11, 8350, 8536 Shaver Road:** Staff summarized the request for a variance to modify a nonconforming non-accessory sign situated on 8350 Shaver Road, where Wal-Mart is located. Clark Peterson, on behalf of Golf Performance Academy located at 8536 Shaver Road, and Rich Raschke of A-1 Signs, were present to explain the requested sign change for the new tenant on site. In addition, Mr. Raschke noted that Wal-Mart has granted an easement for the sign to be located on the property at 8350 Shaver Road in perpetuity.

A public hearing was opened. As no written or verbal comments were received, the public hearing was closed.

Rhodus requested clarification as to the ownership of the property at 8536 Shaver Road. Staff and the City Attorney indicated that BNA Enterprises LLC has the same address as the property address, and the parties involved are Betty and Norm Collins, who have provided authorization to Golf Performance Academy to apply for the sign variance.

A motion was made by Linenger, supported by Singer, to approve a variance to modify a nonconforming non-accessory sign located on 8350 Shaver Road for the following reasons: the practical difficulty is the pre-existing off-premise sign and there are exceptional circumstances applying to the property as the property has no public street frontage, the variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify a business, the variance will not be detrimental to adjacent property; the variance will not 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. After further discussion and upon roll call vote (Linenger-Yes, Kerr-Yes, Schimmel-Yes, Felicijan-Yes, Singer-Yes, Bunch-yes, Rhodus-yes) motion carried 7-0.

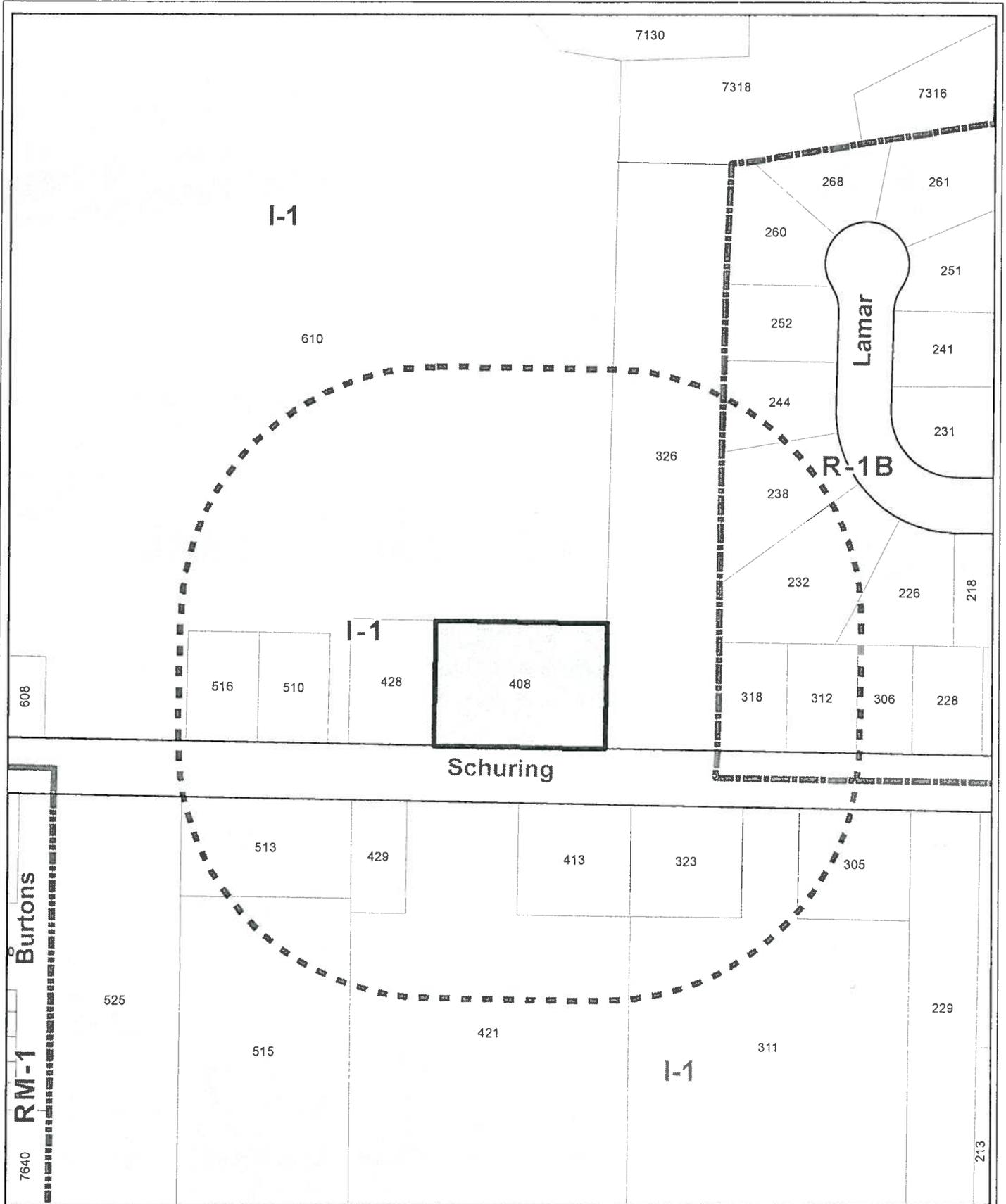
**Election of Officers:** A motion was made by Felicijan, supported by Singer to nominate Linenger for Chair. Upon roll call vote, the motion carried 6-0 (Kerr abstained). A motion was made by Linenger, supported by Singer, to nominate Felicijan as Vice-Chair, and Schimmel as Secretary. Upon roll call vote, the motion carried 6-0 (Kerr abstained).

**STATEMENT OF CITIZENS:** Linenger read a proclamation for Henry Kerr, acknowledging his many years of service on the Zoning Board of Appeals. Kerr thanked the Board, noted he has learned a lot and hopes he has helped the city grow in an orderly fashion and improve signage, especially on South Westnedge Avenue.

**ADJOURNMENT:** There being no further business, the meeting was adjourned at approximately 7:20 p.m.

Respectfully submitted,

Vicki Georgeau, AICP  
Deputy Director of Neighborhood Services



ZBA 10-12  
408 Schuring Road

- Legend**
-  Zoning Boundary
  -  300' Notification Boundary
  -  Subject Property



1 inch = 150 feet

**ZONING BOARD OF APPEALS APPLICATION**

**FOR COMPLETION BY APPLICANT**

Application Date February 11, 2011

Name of Applicant KAB CNC Creations LLC  
 Print

Signature

Applicant's Address 408 Schuring Rd, Portage, MI 49024

Phone No. (269) 330-1508

Name of Property Owner (if different from Applicant) Kevin Braat and Amy Braat

Address 408 Schuring Rd, Portage, MI 49024

Phone No. (269) 327-9101

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

Street Address 408 Schuring Rd, Portage, MI 49024

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: Home occupation variance for craft business in barn.

Application Fee \$135.00 (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 42-129 Paragraph \_\_\_\_\_

Regarding: Use of barn Area \_\_\_\_\_ Yards \_\_\_\_\_

Setbacks \_\_\_\_\_ Parking \_\_\_\_\_ Other \_\_\_\_\_

Reason for Request (Also complete page 2 of application): Using barn in craft business.

**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>10-12/10-10000010</u>	Filing Date: <u>2/15/11</u>	Tentative Hearing Date: <u>3/14/11</u>
Previous Application Filed Regarding This Property:		

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COMMUNITY DEVELOPMENT

**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.)  
The property is 201.72' wide by 150' deep with a house in front of a barn on the east side of the property. The house and barn were built about 1918 and used to be a family farm.
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)  
There are greenhouses on 2.5 sides of the property, and two houses on 1.5 sides of the property. The neighboring house has a detached garage and the house across the street has a breezeway attaching the garage to the home.
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)  
Per the Home Occupation Permit, section 42-129 2. The occupation or profession is carried wholly within the principal building. We require the use of our workshop in our barn for this occupation, due to saws and routers their maybe noise. Floor space required would be more then 25% of our home if we moved it to the primary building.
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.)  
Due to the required space for the workshop moving the business into the home would take up more than 25% of the floor space on any floor and would use an existing workshop in the barn. Since this business came from our hobby there would be no more noise then our hobby required.
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.)  
Most adjacent properties are greenhouses there is one house across the street from us and another house about 150' away from the barn. If our barn door was open there maybe some noise that could be heard from running our machines (saw, router, etc) since the closest neighbor are greenhouses this should not be a problem.
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.)  
Our craft business would sell items mainly online and at craft shows. Most of our materials are obtained locally as needed so there would be no noticeable increase in traffic.
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.)  
Most craft business of this type would use floor space in a garage attached to the primary building (home). We do not have an attached garage we have a small barn that includes a one car garage with a workshop that is not attached to our primary building (home) that was built in 1918.
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)  
The spirit of the Home occupations ordinance is to allow families to have small businesses on their property that neighbors would not notice. We have build many items for ourselves using the machinery found in most home hobby workshops (router, saw, etc) and we have been using these items for the last 7 years. Now we would like to sell similar items.

  
Signature of Applicant

2/14/2011  
Date

### Legend

-  Selected Features
-  City Limits
-  Parcel Addresslines
-  Surface Water
-  Rivers
-  Lakes
-  Structures
-  Parcel Boundaries

### Reference Map



Drag a box or click a point to zoom in on map



132

Searing Rd

157

100

201.72

201.72

201.72

301.72

408

157

157

100

132

157

201.72

201.72

301.72

408

#### Map Tools

-  Zoom In
-  Zoom Out
-  Pan
-  View Entire Map
-  Previous View
-  Zoom To Selected
-  Measure & Area
-  Change Map Type
-  Layer Visibility

#### Query & Selection

-  Identify
-  Find By ID#
-  Select
-  Clear Selection
-  Find By Address
-  View Selection
-  Build Query
-  Select by Buffer
-  View Selection

#### Maps & Reports

-  Printable Map
-  Printable Report
-  Mailing Data

#### Miscellaneous

-  Set Map Units
-  Help

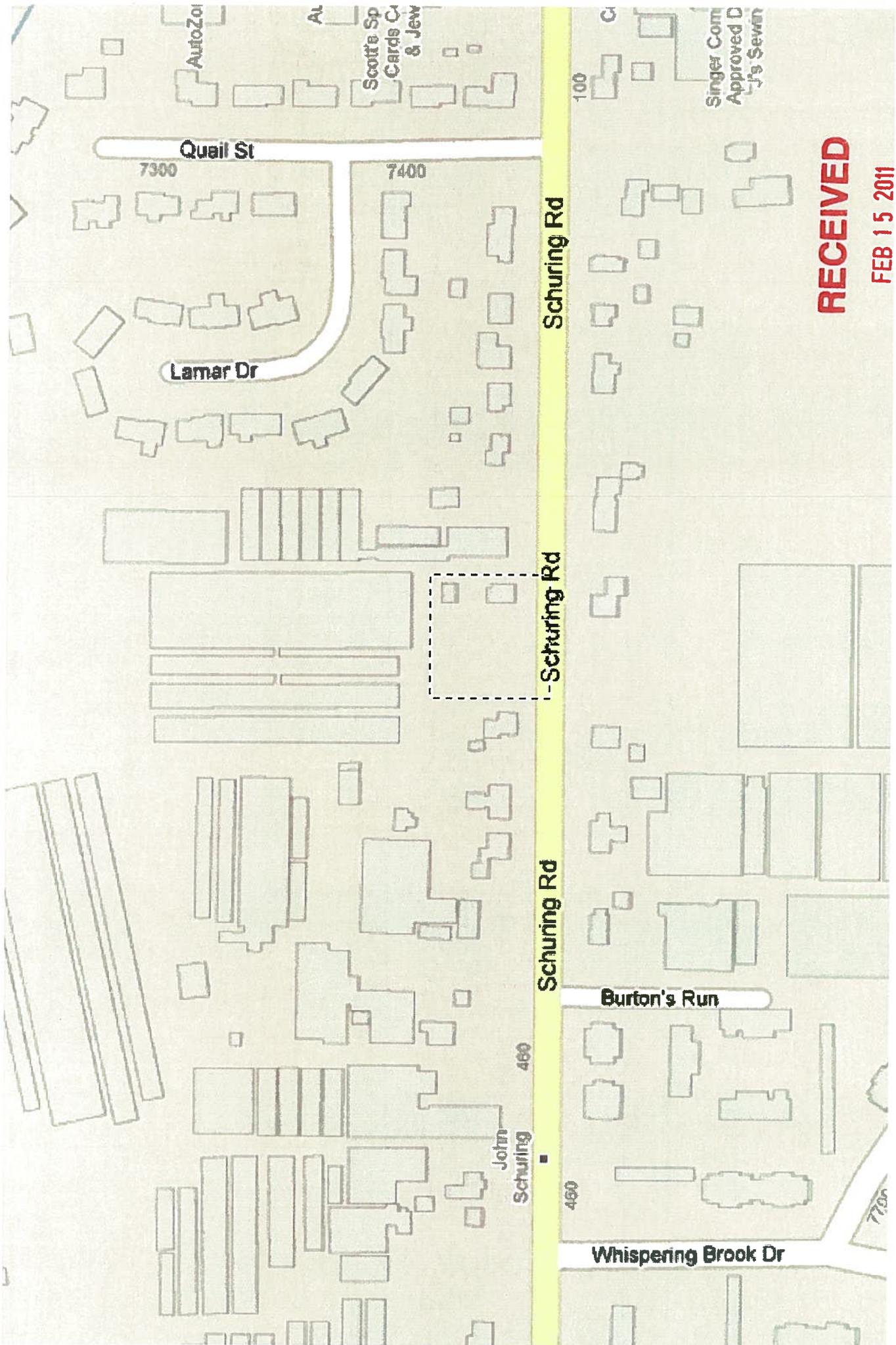
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**COMMUNITY DEVELOPMENT**

Created By:

Sources:

Disclaimer:



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**General Property Information**

[Back to Non-Printer Friendly Version] [Send To Printer]

Parcel: 00016-165-O Data Current As Of: 7:15 PM 2/11/2011

<b>Property Address</b> [collapse]
408 SCHURING RD PORTAGE, MI 49024

<b>Owner Information</b> [collapse]	
BRAAT, KEVIN & AMY 408 SCHURING RD PORTAGE, MI 49024	<b>Unit:</b> 10

<b>Taxpayer Information</b> [collapse]
SEE OWNER INFORMATION

<b>General Information for Tax Year 2010</b> [collapse]			
<b>Property Class:</b>	401	<b>Assessed Value:</b>	\$45,600
<b>School District:</b>	39140 - PORTAGE	<b>Taxable Value:</b>	\$45,600
<b>State Equalized Value:</b>	\$45,600	<b>Map #</b>	N/A
<b>User Number Indx:</b>		<b>Date of Last Name Chg:</b>	08/23/2004
		<b>Date Filed:</b>	08/16/2004
		<b>Notes:</b>	N/A
<b>Principal Residence Exemption</b>	<b>May 1st</b>	<b>Final</b>	
2011	100.0000 %	-	
2010	100.0000 %	100.0000 %	
<b>Previous Year Info</b>	<b>MBOR Assessed</b>	<b>Final S.E.V.</b>	<b>Final Taxable</b>
2009	\$47,200	\$47,200	\$45,761
2008	\$44,600	\$44,600	\$43,833

<b>Land Information</b> [collapse]			
	<b>Frontage</b>		<b>Depth</b>
<b>Lot 1:</b>	201.72 Ft.		150.00 Ft.
<b>Lot 2:</b>	0.00 Ft.		0.00 Ft.
<b>Lot 3:</b>	0.00 Ft.		0.00 Ft.
<b>Total Frontage:</b>	201.72 Ft.	<b>Average Depth:</b>	150.00 Ft.
<b>Acreage:</b>	0.69		
<b>Zoning Code:</b>	I-1		
<b>Land Value:</b>	\$35,000	<b>Mortgage Code:</b>	
<b>Land Improvements:</b>	N/A	<b>Lot Dimensions/Comments:</b>	
<b>Renaissance Zone:</b>	NO		
<b>Renaissance Zone Expiration Date:</b>			
<b>ECF Neighborhood Code:</b>	8000 - ROAD FRONTAGE		

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**FEB 15 2011**

**COMMUNITY DEVELOPMENT**

**TO:** Zoning Board of Appeals **DATE:** March 4, 2011  
**FROM:** Jeffrey M. Erickson, Director of Community Development  
**SUBJECT:** ZBA #10-12; KAB CNC Creations, LLC (Kevin and Amy Braat), 408 Schuring Road; I-1, Light Industrial

**CODE SECTION:** 42-129(B)2, Home Occupations; p. CD42:38

**APPEAL:** Requesting a variance from the home occupation standards to allow the operation of a woodcraft home-based business in a detached accessory building.

**STAFF RECOMMENDATION:**

The applicant requests the above variance per the enclosed application and related materials. The property is 30,150 square feet in area and is improved with a 1,460 square-foot two-story dwelling and 540 square-foot detached accessory building. The residential use of the property is legally nonconforming, as the property is zoned I-1, Light Industrial. The surrounding properties are also zoned I-1, Light Industrial. The properties to the north, south, and east accommodate greenhouses, and nonconforming dwellings to the west and across the street to the south.

The applicant produces woodcrafts as a hobby (using saws, routers, and other wood working equipment) in the detached accessory building. The applicant has been doing so since moving in seven years ago and now wishes to sell the craft items on-line and at craft shows as a home occupation. Section 42-129(B)2 requires home occupations to be conducted wholly within the principal building, so a variance is requested.

The detached accessory building is located behind the dwelling near the northeast corner of the property. The nonconforming residences to the west and south are located approximately 180 and 210 feet respectively from the subject accessory building and there is mature vegetation on the property to the west. No complaints have been received concerning excessive noise or traffic at this address during the time the applicant has conducted the woodcraft hobby.

The dwelling is a nonconforming residence in an I-1 Light Industrial zone. There are adjacent industrial uses to the north, south and east. The applicant has been operating woodcraft equipment in the accessory building without complaints from any neighbors. In addition, the I-1 zoning would allow for redevelopment of the property or conversion to a more intensive use in comparison to the proposed home occupation. It appears that the variance would not be detrimental to adjacent property and the surrounding area, nor materially impair the intent and purpose of the Zoning Ordinance. The following factors indicate that a practical difficulty exists. If the Board concurs, the variance may be approved.

**PRACTICAL DIFFICULTY:**

Nonconforming residential use in an I-1, Light Industrial zoning district; Adjacent industrial uses; Existing buffer (distance from neighbors and existing vegetation) between accessory buildings and neighboring residences. See Suggested Motion form.

**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:

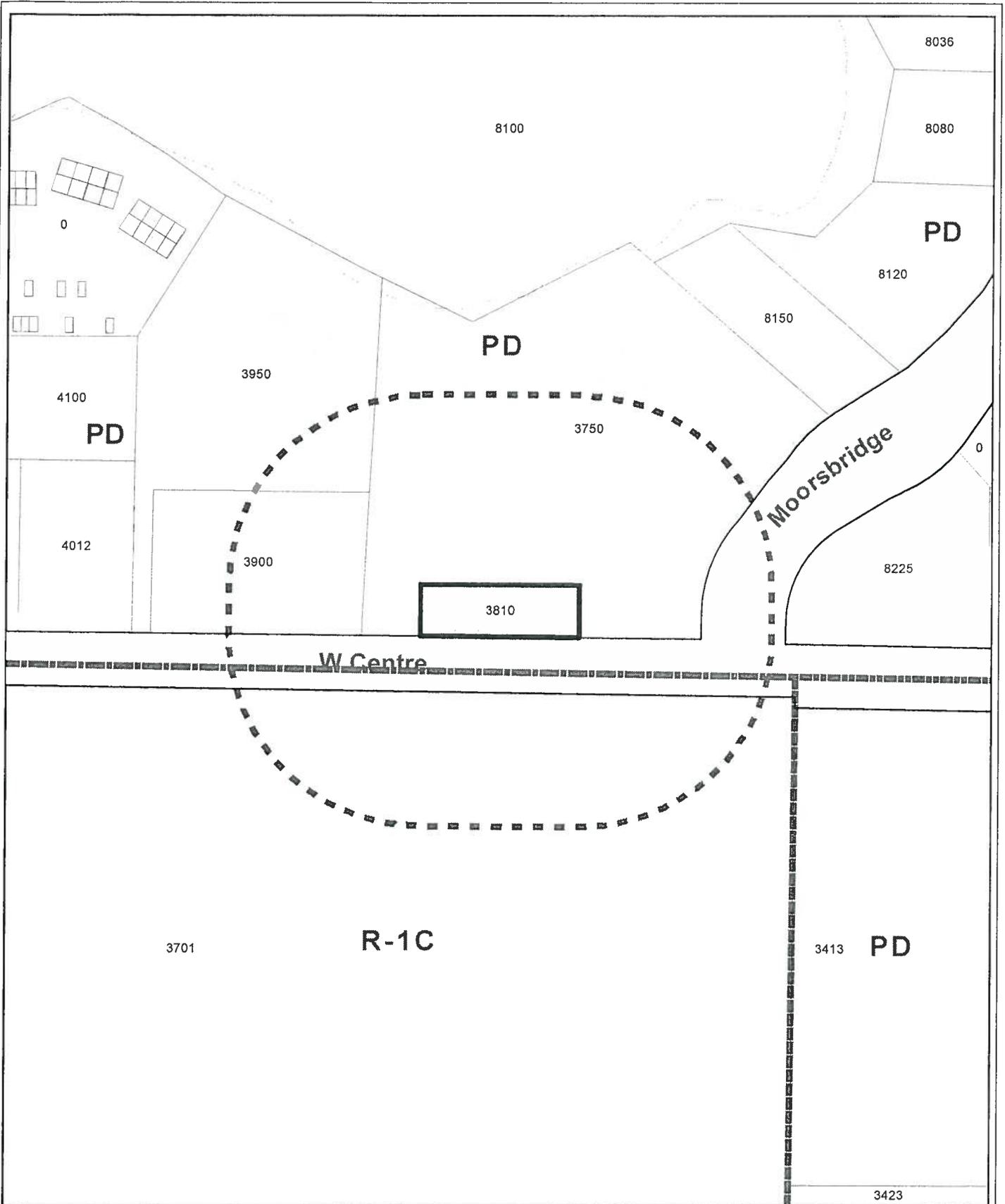
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include \_\_\_\_\_;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, 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.**



  
 1 inch = 200 feet

**ZBA 10-13**  
**3810 West Centre Avenue**

- Legend**
-  Subject Property
  -  Zoning Boundary
  -  300' Notification Boundary

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10000011

FEB 15 2011



COMMUNITY DEVELOPMENT

Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 2/15/11

Name of Applicant SignArt, Inc. - Steve VanderSloot

Signature (handwritten)

Signature

Applicant's Address 5757 East Cork St., Kalamazoo, MI 49048

Phone No. 269.381.3012

Name of Property Owner (if different from Applicant) Treystar

Address 7950 Moorsbridge Rd., Portage, MI 49024

Phone No. 269.329.1808

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

Street Address 3810 W. Centre Avenue

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 contractor.

Application Fee (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 4 Section 42-544 Paragraph B

Regarding: Use Area Yards

Setbacks X Parking Other

Reason for Request (Also complete page 2 of application): Requesting for a variance to replace the existing sign panels on the existing nonconforming freestanding sign.

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, Filing Date, Tentative Hearing Date. Row 2: Previous Application Filed Regarding This Property.

**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.)  
As sited by previous Zoning Board of Appeals, the property has a limited front yard area for a free-standing sign. This is due to the existing office building not meeting current front yard setback requirements. The sign became nonconforming when the city acquired additional right-of-way.
  
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)  
Yes.
  
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)  
Yes.
  
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.)  
Yes.
  
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.)  
The proposed re-use of the existing sign would be consistent with previous tenants that include Robert Schaefer and Borgess Health Alliance. The use of this sign by previous tenants did not have an adverse affect. The conditions have not changed.
  
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.)  
The fieldstone base and sign cabinet(s) have been in place since 1998. None of the previous uses created problems or unsafe conditions.
  
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.)  
All conditions were created by previous owners and occupants. The fieldstone sign base is existing. The sidewalk was designed in a circular configuration to go around the sign. See attached site plan.
  
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)  
The spirit and intent of the ordinance is to provide identification in a safe, consistent, and fair way. The proposed re-use of the existing sign position and cabinet in no way jeopardizes safety or creates an unfair advantage over others.



Signature of Applicant

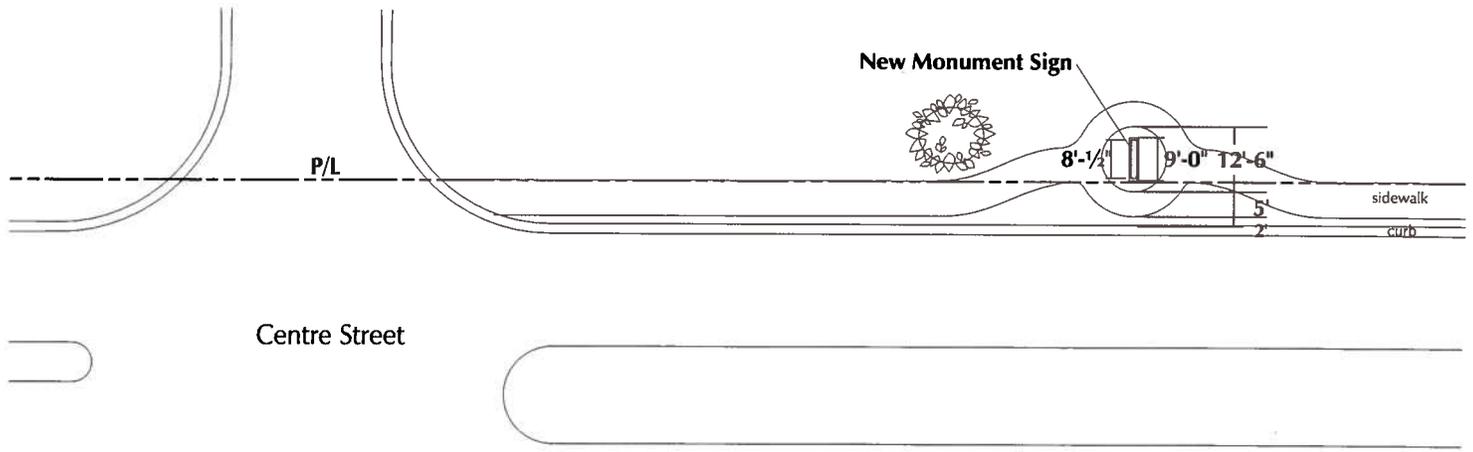
2/15/11

Date



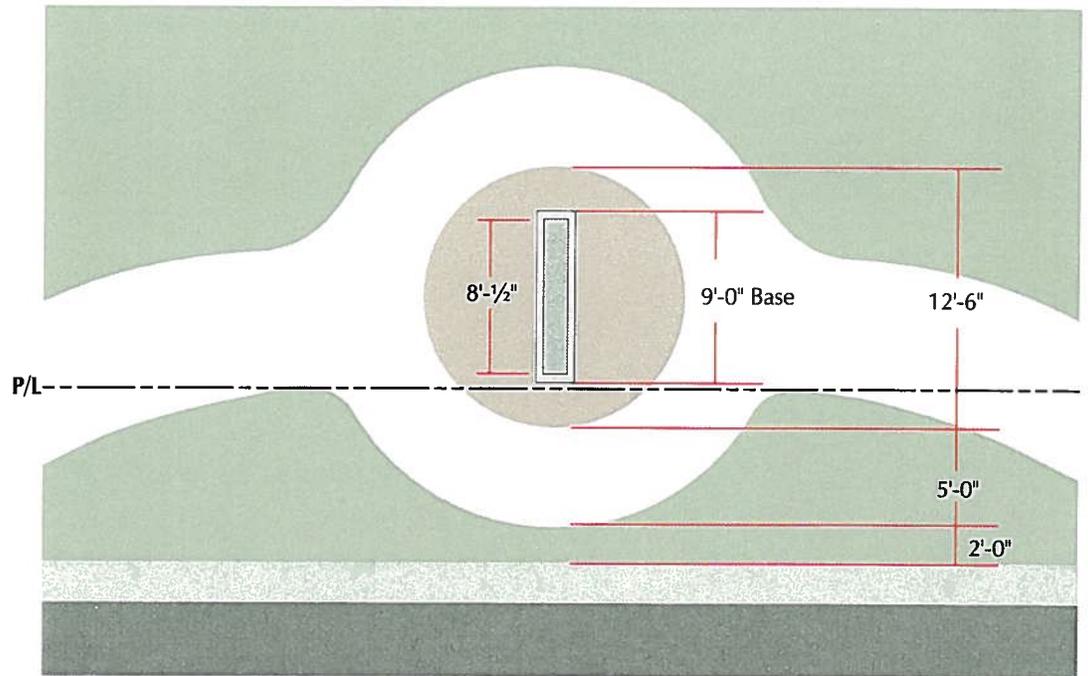
**Replacement Faces for Existing Double Faced Illuminated Monument Sign** **Scale : 1/2" = 1'-0"**

New 1 1/2" pan white polycarbonate faces with applied pressure sensitive vinyl (colors to be verified) for existing double faced illuminated monument sign with 1 1/2" aluminum retainers.



Site Plan

Scale : 1" = 40'



Site Plan

Scale : 1" = 10'



**RECEIVED**  
FEB 23 2011  
COMMUNITY DEVELOPMENT

February 18, 2011

Mr. Jeff Mais  
City of Portage  
7900 S. Westndge  
Portage, MI 49024  
Fax: (269) 329-4506

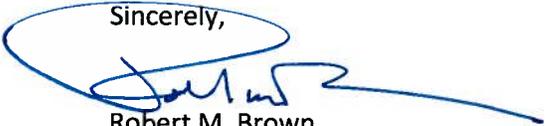
Re: Sign Variance  
3810 W. Centre Ave  
Portage, Mi 49024

Dear Mr. Mais,

On behalf of Commercial II, LLC and Treystay, owners of the building located at 3810 W. Centre Avenue in Portage, I hereby officially request to maintain the variance for the sign directly in front of the building. The new tenant going into this building, Center for Vein Restoration is a local vein clinic that will be using this sign to promote their business.

Thank you for your assistance in this matter, should you have any questions please feel free to contact me.

Sincerely,



Robert M. Brown  
Commercial II, LLC  
(269) 329-1808 ext 106  
[bbrown@treystar.com](mailto:bbrown@treystar.com)

**TO:** Zoning Board of Appeals **DATE:** March 4, 2011

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

**SUBJECT:** ZBA #10-13; Sign Art on behalf of the Center for Vein Restoration, 3810 West Centre Avenue; PD, Planned Development.

**CODE SECTION:** 42-544(C) Nonconforming signs; p. CD42:128

**APPEAL:** Requesting a variance to replace the sign panels on an existing nonconforming freestanding sign.

**STAFF RECOMMENDATION:**

The applicant requests the above variance per the enclosed application, sketches, and site plan. The property is 0.55 acres in area and is improved with a 3,421 square-foot commercial building. The property is zoned PD, Planned Development, along with the adjacent parcels. The sign is 32 square-feet in area where a 50 square-foot sign is permitted. The panel change is necessary as there has been a change in tenancy.

The existing monument sign is located at the front property line. The approved location was incorporated into the 1994 West Centre Avenue reconstruction project. At that time, Kalamazoo County purchased additional right-of-way and easements, relocated the public sidewalk to curve around the existing sign, and widened West Centre Avenue. The previously conforming sign became nonconforming as a result of this project.

Variations to change the tenant panel on this sign have been approved in 1998 and 2005. The limited front yard area, the existing landscaping, the location of the existing sidewalk, and the removal/relocation of the existing monument sign present practical difficulties for the property. Staff recommends approval of the variance.

**PRACTICAL DIFFICULTY:**

Limited front yard area, location of existing landscaping and sidewalk. See Suggested Motion form.

**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:

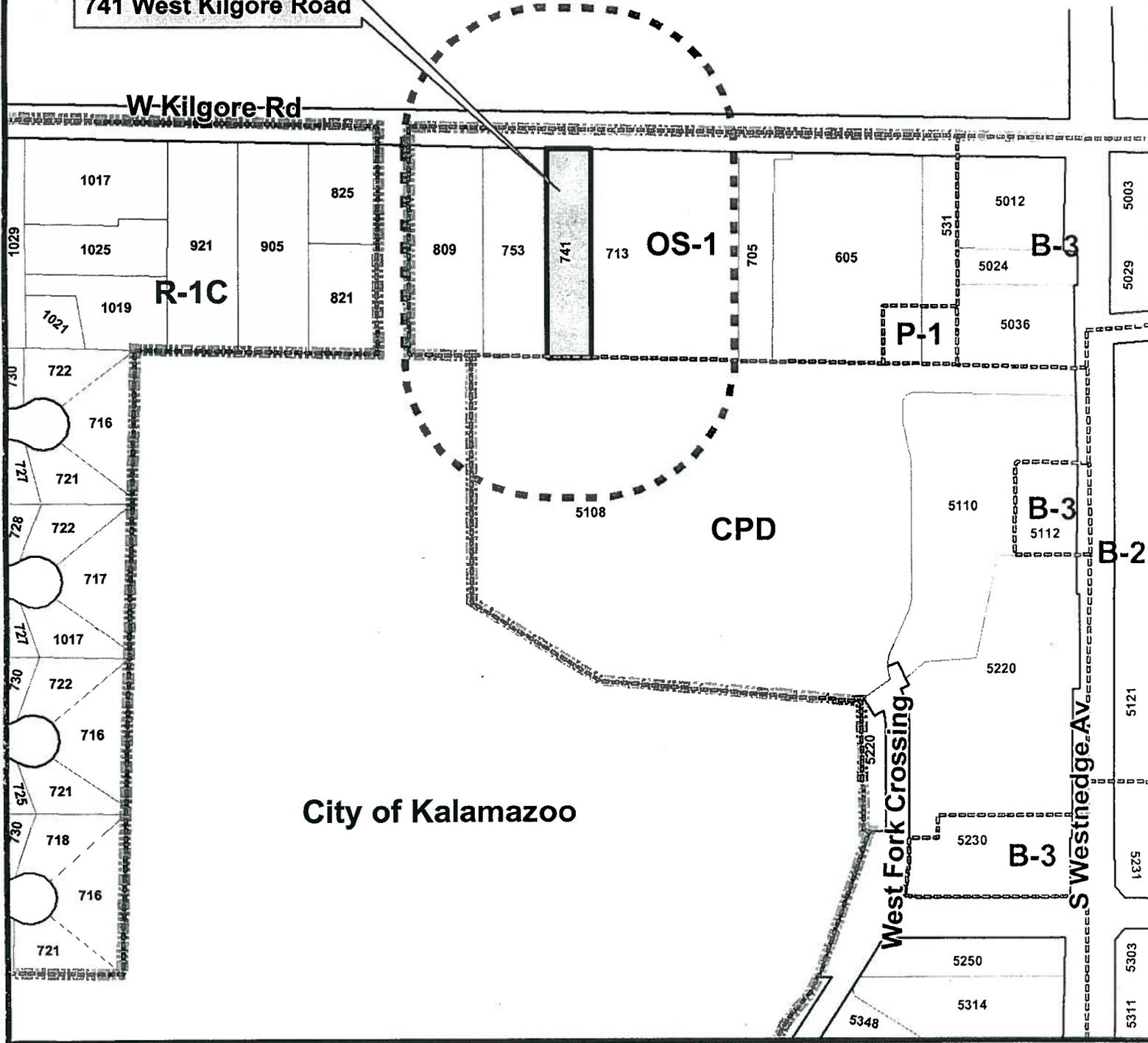
- 1b. There are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district;
- 2b. The variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed 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.**

# City of Kalamazoo

**Subject Property**  
741 West Kilgore Road

**W-Kilgore Rd**



City of Kalamazoo



1 inch = 300 feet

## ZBA 10-14 741 West Kilgore Road

### Legend

- 300' Notification Area
- Subject Property
- Zoning Boundary
- City Boundary

**ZONING BOARD OF APPEALS APPLICATION**

**FOR COMPLETION BY APPLICANT**

Application Date 2/23/11  
 Name of Applicant Donna Loversee Donna Loversee  
Print Signature  
 Applicant's Address 741W. Kilgore Phone No. 269-381-4155  
 Name of Property Owner (if different from Applicant) \_\_\_\_\_  
 Address \_\_\_\_\_ Phone No. \_\_\_\_\_

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

Street Address same  
 For Platted Property: Lot 14-20 of 15 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: group daycare

Application Fee \$135.00 (Residential Uses) \_\_\_\_\_ (All Other Uses)

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

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

Reason for Request (Also complete page 2 of application): \_\_\_\_\_

N/A **Appeal of Administrative Decision:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

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

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

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

N/A **A Temporary Permit for:** Building \_\_\_\_\_ Use \_\_\_\_\_ Other Approval \_\_\_\_\_  
 Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: To expand from 6 children to 12

**FOR STAFF USE**

Application Number: <u>2011 10-14</u>	Filing Date: <u>2/25/2011</u>	Tentative Hearing Date: <u>3/14/2011</u>
Previous Application Filed Regarding This Property: <u>N/A</u>		

Presently I have a home daycare with 6 children. I have been a licensed daycare provider for almost 30 years. Of which have been in this home. I always maintain standards for state guidelines.

I provide a home atmosphere, structured for learning daily living skills and preparation for school. I have different rooms for different development stages conducive to learning.

I have had parents that are looking to have more children and do not want to change childcare providers'.

I receive calls from people looking for child care.

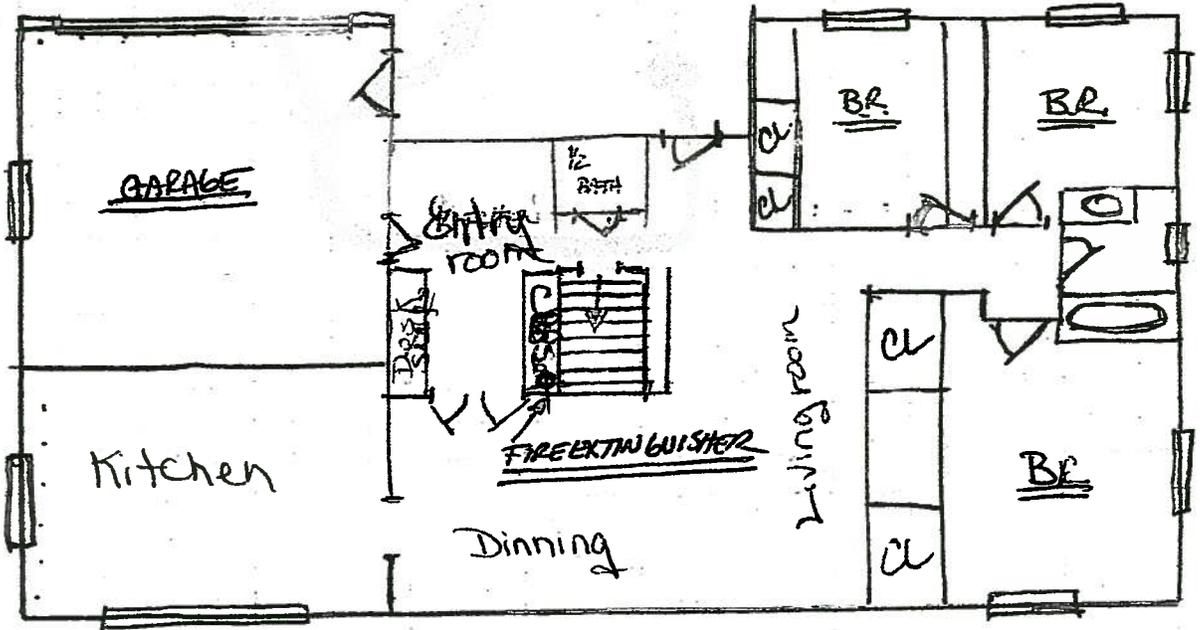
I have a great set up. There are no structure changes needed.

I have a fenced in back yard, half of it for play area. The whole property is over an acre and is all fenced in. The back half of the property is wooded and is a great opportunity for supervised walks and observation of nature.

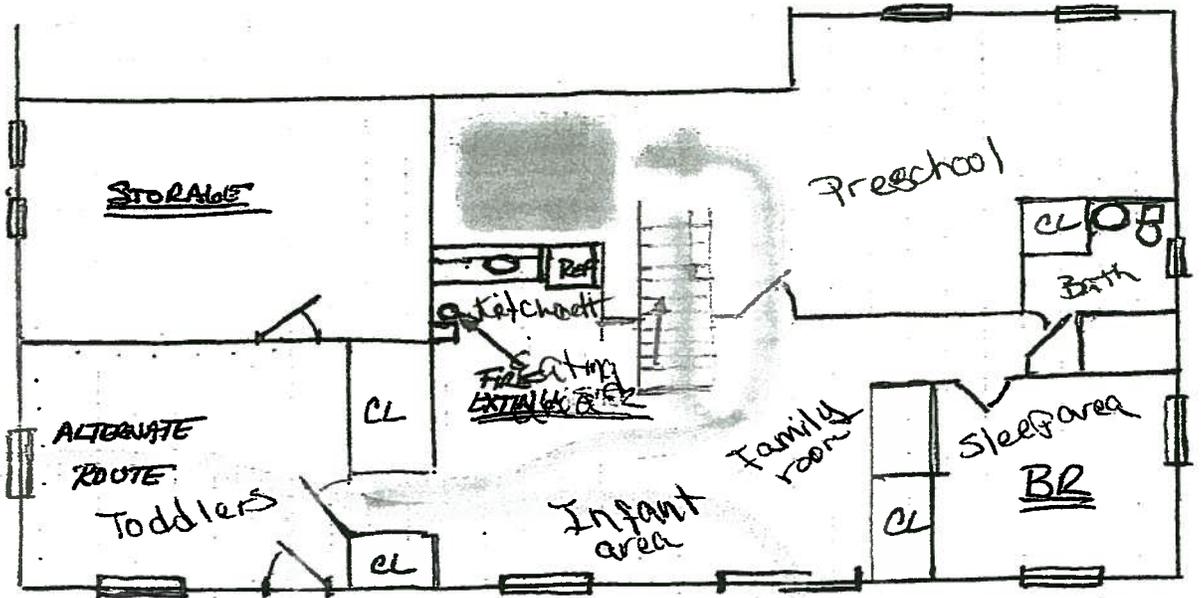
There is not an impact on the surrounding area, by business because there is two schools within 200 yards, also Lowe's home improvement store.

Thank You Donna Leversee  
Owner of Steps & Stages

741 W. KILGORE RD.



UPSTAIRS



DOWNSTAIRS

FIRE

TORNADO





**TO:** Zoning Board of Appeals **DATE:** March 4, 2011  
**FROM:** Jeffrey M. Erickson, Director of Community Development  
**SUBJECT:** ZBA #10-14; Donna Leverage, 741 West Kilgore Road; OS-1, Office Service  
**CODE SECTION:** 42-133(C), Nonconforming uses; p. CD42:43  
42-241, OS-1, Office Service District; p. CD68.4  
**APPEAL:** Requesting approval to operate a group child care home on the property.

**STAFF RECOM-  
MENDATION:**

The applicant requests the above approval per the enclosed application, floor plan, letter of explanation and photos. The one-acre property is improved with a 1,460 square-foot dwelling and 400 square foot attached garage built in 1956. The residential use of the property is nonconforming, as the property was rezoned to OS-1, Office Service in 1998. Adjacent properties to the east and west are also zoned OS-1. One property is improved with a single-family dwelling (west) and the other parcel to the east is vacant land. The property to the south is zoned CPD, Commercial Planned Development, and developed with the Lowe's Home Improvement store. Property to the north across Kilgore Road, located in the City of Kalamazoo, is developed with multiple-family residential uses.

The applicant has operated a family child care business at 741 West Kilgore Road for over 20 years, which permits the care of up to six children. The applicant proposes to expand the nonconforming child care accessory use within the dwelling to a group child care home, which permits for the care of up to 12 children. The lower level of the house accommodates the child care use, and no structural alterations to the interior or exterior of the dwelling are proposed for the expanded capacity. The entire rear yard is utilized for the family day care, and no changes to the exterior of the property are proposed for the expanded child care.

The OS-1 district permits commercial child care centers, but does not permit residential uses and uses customarily accessory to residential uses such as child care homes. Therefore, the applicant requests Board approval for the proposed group child care home under Section 42-133(C)(4) of the Zoning Code. If no structural alterations are made, this section permits a nonconforming use to be changed to another nonconforming use of the same or a more conforming nature, provided: 1) the proposed use is equally appropriate or more appropriate in terms of intensity, parking, or similar factors; 2) the use will not unreasonably extend the duration of the nonconforming use; and 3) the use will not adversely affect the neighboring properties.

Approval of the proposed group child care home use is recommended. No prior complaints have been received, no structural alterations are proposed, the accessory group child care home use is more consistent with the OS-1 district, and the expanded child care use is not anticipated to prolong the nonconforming residential use of the property.

**PRACTICAL  
DIFFICULTY:** Not applicable.