

CITY OF
PORTAGE
A Place for Opportunities to Grow

ZONING BOARD OF APPEALS

June 27, 2011

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, June 27, 2011

(7:00 pm)

Portage City Hall

Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * May 9, 2011

OLD BUSINESS:

NEW BUSINESS:

- * ZBA# 10-17, 121 Boston Avenue & 5747 South Westnedge Avenue: Jay Sharma is requesting a use variance for a single-family residential use in a B-3, General Business district.
- * ZBA# 10-19, 7714 Pickering Street: Paul Aeed is requesting a variance to expand a nonconforming dwelling by constructing a 12-foot by 24-foot sunroom 16 feet from the rear (west) property line where a 40-foot rear yard setback is required.
- * ZBA# 10-20, 8127 Portage Road: Sheila Shubnell, on behalf of Green Earth Hydroponics is requesting a Temporary Use Permit for an outdoor farmer's market each Monday from July through September 2011, and each Monday during June through September 2012 and annually thereafter.

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

Star (*) indicates printed material within the agenda packet

CITY OF PORTAGE ZONING BOARD OF APPEALS
Minutes of Meeting – May 9, 2011

 **DRAFT**

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Rob Linenger at 7:00 p.m. in the Council Chambers. One person was in the audience.

MEMBERS PRESENT: Timothy Bunch, David Felicijan, Rob Linenger, Betty Schimmel, Marianna Singer, Daniel Rhodus, Jeff Bright.

MEMBERS EXCUSED: Donald Mordas, Lowell Seyburn

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator, Charles Bear, Assistant City Attorney

APPROVAL OF THE MINUTES: Felicijan moved and Schimmel seconded a motion to approve the April 11, 2011 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA# 10-16, 10027 Oakland Drive: Staff summarized the request for a variance to establish a microbrewery with a 50 seat occupancy restaurant that provides lunch and dinner service in a B-3 General Business zone, where a minimum 100 seat occupancy restaurant is required with a microbrewery. Scot Smoker was present to answer questions. Linenger inquired what the practical difficulty was. The applicant stated he needed time to build up his brand and operate before financing an addition for a 100 seat restaurant. Staff added the 100-seat restaurant provision in the ordinance was intended to differentiate between uses of an industrial and general commercial character, and that the retail nature of the proposed use could be considered an 'exceptional circumstance'. Felicijan requested clarification where the seating would be provided. The applicant stated in the tap room. Felicijan inquired if the applicant had considered using the events/banquet hall area for seating. Mr. Smoker said the area could accommodate approximately 185, but would be shared jointly by the microbrewery and the wellness center businesses. Singer inquired of the applicant if they could provide at least 50 more seats in the events/banquet hall area, even if the use of the area for seating diners was not set up on a daily basis. The applicant stated there could be seats in the events area and they would be willing to provide however many were needed to satisfy city code requirements. Singer inquired if the events/banquet hall area were to be applied towards the restaurant occupancy requirement could it affect building or other code requirements. Staff responded it could affect fire suppression and parking requirements.

A public hearing was opened. No one was present to speak for or against the request. The public hearing was closed.

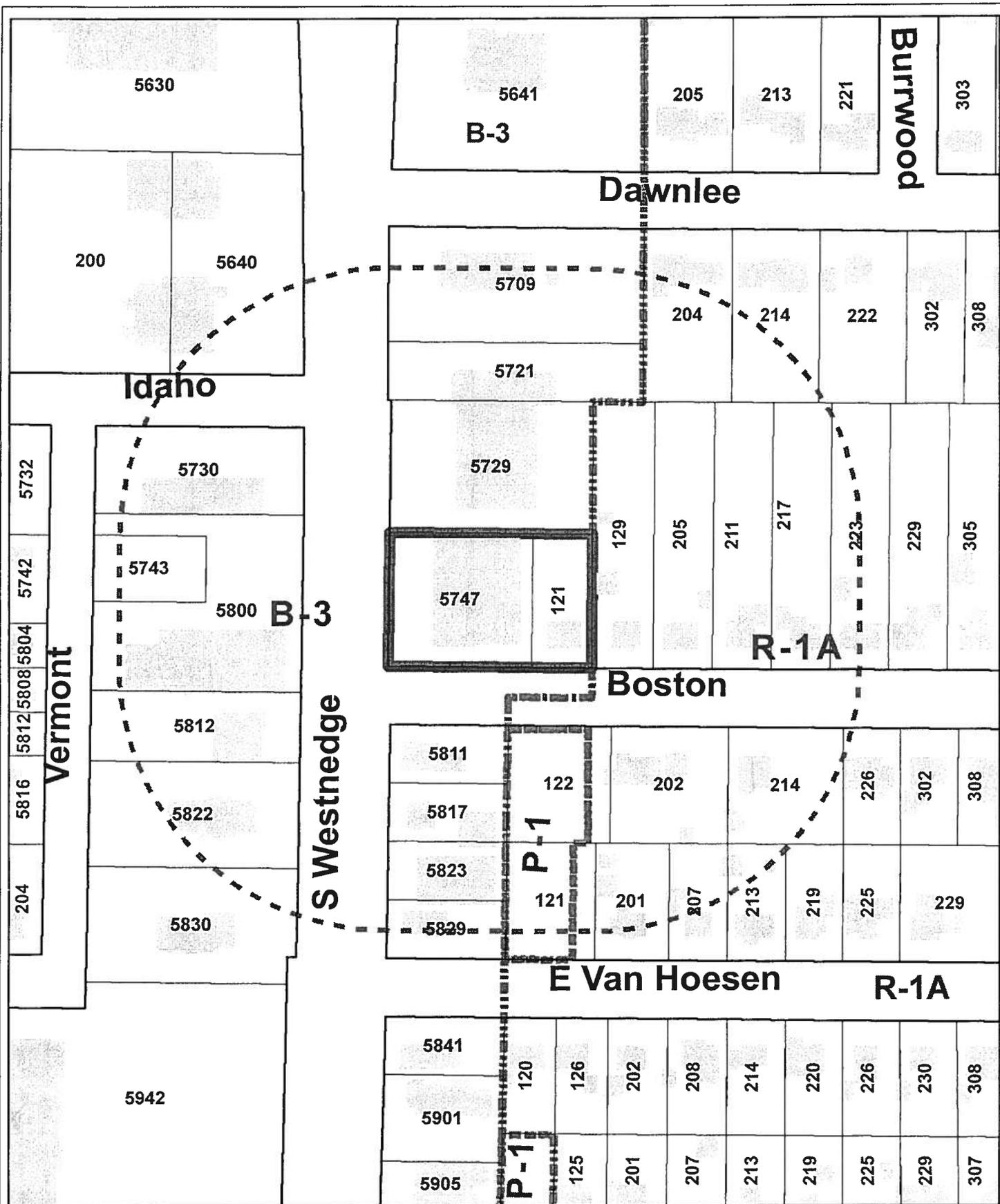
After additional discussion, a motion was made by Felicijan, supported by Singer, for an interpretation that a variance from Section 42-262(C)(8)(c) is not needed in this instance, as additional area for seating is available in the events/banquet hall. In addition, the application and supporting materials, 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. Upon roll call vote: Linenger-Yes, Schimmel-Yes, Felicijan-Yes, Singer-Yes, Bunch-Yes, Rhodus-Yes, Bright-Yes, the motion carried 7-0.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 7:38 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



1 inch = 150 feet

ZBA 10-17
 121 Boston Avenue &
 5747 S Westnedge Avenue

Legend

-  Subject Properties
-  300' Notification Boundary
-  Zoning Boundary

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 04/20/2011
 Name of Applicant JAY SHARMA Jay Sharma
Print Signature
 Applicant's Address 6804 Veronica St. Kalamazoo Phone No. (269) 806-5905
MI 49009
 Name of Property Owner (if different from Applicant) _____
 Address _____ Phone No. _____
 Address of the Property that is the subject of this Application:
 Street Address 121 BOSTON AVE, PORTAGE, MI 49002
 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: Owner of the Property

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): _____

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>10-10000015</u> <u>10-17</u>	Filing Date: <u>5/9/11</u>	Tentative Hearing Date: <u>6/27/11</u>
Previous Application Filed Regarding This Property: <u>None</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.)
PROPERTY IS DESIGNED FOR RESIDENTIAL USE - IT WAS CONVERTED FOR COMMERCIAL USE TO ALLOW PARKING REQUIREMENTS OF 5747 S. WESTNEDGE AVE
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.)
NO. The Property Does Not Have Any Features which can or will Appeal to Any Business. We have listed with Commercial Real Estate Company Several times.
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.)
I AM Requesting A lesser Variance - Through June 30, 2013 when the Current lease will expire. I will market at least 6 Months before with a Real Estate Company to Rent to a commercial Business.
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 Property is a Residential House design - NOT A Commercial Real Estate Design. It Blends with other Houses in the Neighborhood.
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.)
Please See my Answer in Item # 1, 3, 5.
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.)
This is a combination of Personal Financial Hardships in this Economy and The unique location of this property.
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
The Short Term Variance would NOT affect the Neighborhood or City of Portage in that area.

Jay Sharma
Signature of Applicant

04/20/2011
Date

From : Jay Sharma
6804 Veronica Stree
Kalamazoo, MI 49009
(269) 806 – 5905

RECEIVED

MAY 18 2011

COMMUNITY DEVELOPMENT

City Of Portage
7900 S. Westnedge Ave
Portage, MI 49024

To Whom it may concern :

Re : 121 Boston Ave, Portage, MI 49002

Dear Sir/Ms. :

I am writing you to review a unique property at 121 Boston Ave. As you can see from the pictures attached, this property is a Residential property but zoned commercial. This property came with the commercial property located at 5747 S. Westnedge ave when we bought the commercial property in 2005. Since then this property has been a terrible headache for me and my wife Neha.

While Developing 5747 S. Westnedge ave, We brought two new businesses in that building. Casual Male XL (A National Retailer) & Isacape Book Store. During the process, I was advised by Mike West and Chris Forth. At that time, to accommodate the shortage of parking, we had combine 5747 S. Westnedge and 121 Boston in to one Site Plan. To do this, we had to take back yard of 121 Boston ave and redevelop the entire site at the cost of about \$ 300,000. I was not aware of such rules and regulations of the City of Portage when we bought this property. In my due diligence, City and Real estate agents had informed me that 5747 is zoned B-3 and any retail establishment can come into that building. We have always done whatever city personnel has asked us to do and complied to all rules and regulations. There is no doubt in my mind that Chris Forth had explained to me at the time was that 121 Boston is a unique property and is a buffer between Residential and Commercial Properties. It can be used for either purpose.

We had a tenant (J & M Distributing) in this property at the time who could not afford the rent. We reduced the rent from \$ 1100 to \$ 800 per month to accommodate their needs. That did not last long. After about a year or so this tenant left and the property was vacant. We tried to lease it through a commercial real estate agent Jodi Milks for long time. Finally, I had placed this property for lease through Lakeside Real estate, Mr. Jim Buchino. Jim worked very hard to get us a tenant who wanted to rent for residential use. So we have leased for 3 years.

During past three years and recent economic conditions, we had to take commercial loans and use Credit card to make Property tax payments. This property has about \$ 4000 in property taxes due to it's commercial zoning. By having this tenant, it pays for Property taxes and maintenance charges only.

As you can see from the pictures attached, this property is more suitable for Residential use than commercial. As you can see outside or inside of the building, there is not one feature that would attract any commercial tenant. It is not on the main road, which discourages any retail business to rent. From Inside, it is laid out to be a house than an office or any other retail use.

By requesting you to give a Temporary use permit, I would only cover the costs for a short period of time. We will continue marketing it as a commercial property or an office space from now on. We would like to request you to consider this short period of time and grant a Temporary use permit to be used by our tenant as a residence.

Sincerely,

A handwritten signature in black ink that reads "Jay Sharma". The signature is written in a cursive, flowing style.

JAY SHARMA.

LEGAL DESCRIPTION
 Parcel 10 of Lot 14, Block 1, City of Boston, containing 10,000 sq. ft. of land, bounded on the north by the City of Boston, on the south by the City of Boston, on the east by the City of Boston, and on the west by the City of Boston.

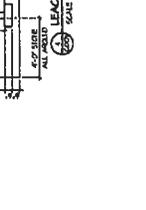
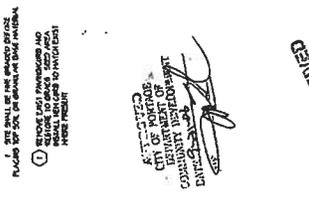
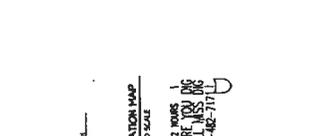
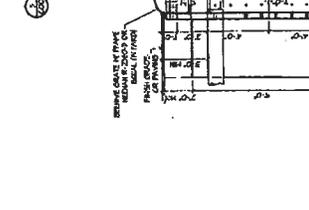
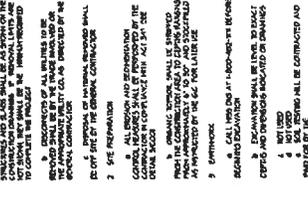
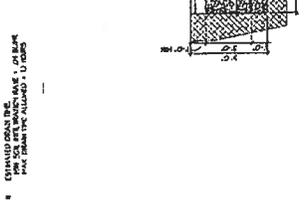
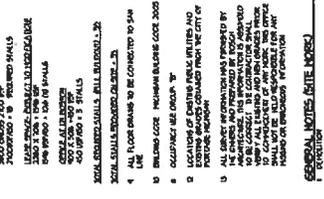
LEGAL DESCRIPTION
 Parcel 10 of Lot 14, Block 1, City of Boston, containing 10,000 sq. ft. of land, bounded on the north by the City of Boston, on the south by the City of Boston, on the east by the City of Boston, and on the west by the City of Boston.

SITE DATA
 1. PROJECT NAME: SHARMA RETAIL CENTER
 2. OWNER: SHARMA RETAIL CENTER
 3. ARCHITECT: [Firm Name]
 4. ENGINEER: [Firm Name]
 5. DATE: [Date]

STORM WATER CALCULATIONS
 1. DRAINAGE AREA: 10,000 sq. ft.
 2. RUNOFF COEFFICIENT: 0.5
 3. DESIGN RAINFALL: 3.0 in.
 4. DESIGN FLOW: 100 gpm

STORM WATER CALCULATIONS
 1. DRAINAGE AREA: 10,000 sq. ft.
 2. RUNOFF COEFFICIENT: 0.5
 3. DESIGN RAINFALL: 3.0 in.
 4. DESIGN FLOW: 100 gpm

GENERAL NOTES (SEE NOTES)
 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF BOSTON DEPARTMENT OF PUBLIC WORKS SPECIFICATIONS.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BOSTON.
 3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.



Sharma Retail Center
 577 Westside Ave and 121 Boston
 Boston, MA

RECEIVED
 SEP 1 2006
 REGISTERED NUMBER 0616
 ARCHITECT: [Firm Name]
 ENGINEER: [Firm Name]

GENERAL NOTES (SEE NOTES)
 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF BOSTON DEPARTMENT OF PUBLIC WORKS SPECIFICATIONS.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BOSTON.
 3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

TO: Zoning Board of Appeals **DATE:** June 17, 2011
FROM: Jeffrey M. Erickson, Director of Community Development
SUBJECT: ZBA #10-17; Jay Sharma, 121 Boston Avenue and 5747 South Westnedge Avenue, B-3, General Business

CODE SECTION: 42-262, B-3, General Business district, Principal Permitted Uses, p. CD 42:74
42-140.3, Temporary uses, p. CD 42:140.3

APPEAL: Requesting a use variance for a single-family residential use in a B-3, General Business district.

STAFF RECOMMENDATION: The applicant requests the above variance per the enclosed application, letter of explanation and photos. The 0.81 acre zoning lot is improved with a 926 square foot building addressed as 121 Boston Avenue, and an 11,102 square foot building at 5747 South Westnedge Avenue with accessory off-street parking and loading facilities. To the north, the property is zoned B-3, General Business, to the south the properties are zoned B-3, General Business and P-1, Vehicular Parking, and to the east the property is zoned R-1A, One-family Residential.

As background, the building at 121 Boston Avenue was initially constructed as a one-family residential dwelling in 1952, but has been zoned B-3, General Business since 1965 when City of Portage Zoning Code was first adopted. The commercial building at 5747 South Westnedge Avenue was constructed in 1977. The building at 121 Boston Avenue has been occupied by office/commercial uses for many years. The applicant purchased both properties in December 2005, and due to a change in tenancy at 5747 South Westnedge Avenue, the parking requirement increased to 35 off-street parking spaces. The applicant combined the two properties into one zoning lot and subsequently reconfigured and expanded the parking lots to serve the uses within the two buildings that occupy the zoning lot. The building located at 121 Boston Avenue requires three parking spaces, and the remaining 32 parking spaces are required for the retail tenants at 5747 South Westnedge Avenue. The applicant indicates that 121 Boston Avenue was listed for lease for commercial or office use over the past two years, but no offers or interest in the property were received. In June 2010, the applicant leased the property to a residential tenant, and is requesting approval to continue the residential use.

The use of the property for residential purposes is inconsistent with the intent of the district, and the unnecessary hardship was created by the applicant. In addition, while the applicant has had difficulty in recent years leasing the building at 121 Boston Avenue for office or retail uses, the property does not have any unique conditions that prevent the reasonable use of the property for office or retail uses otherwise permitted in the B-3 district. Finally, as noted above, when the tenancy of the building at 5747 South Westnedge Avenue changed, off-street parking modifications were required to meet the Zoning Code, and 19 spaces and loading/unloading are accommodated on 121 Boston Avenue, which jointly serve the entire zoning lot. With regard to the applicant proposal to temporarily allow a single-family residential use through June 30, 2013, Section 42-622(D), Temporary Uses, is not applicable. In particular, the existing building is a permanent structure with a foundation and permanent utility connections. Therefore, Board approval of a temporary use permit is not appropriate or applicable in this case. Approval of the requested use variance is not recommended.

**UNNECESSARY
HARDSHIP:** None noted by staff. See Suggested Motion form.

SUGGESTED 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:

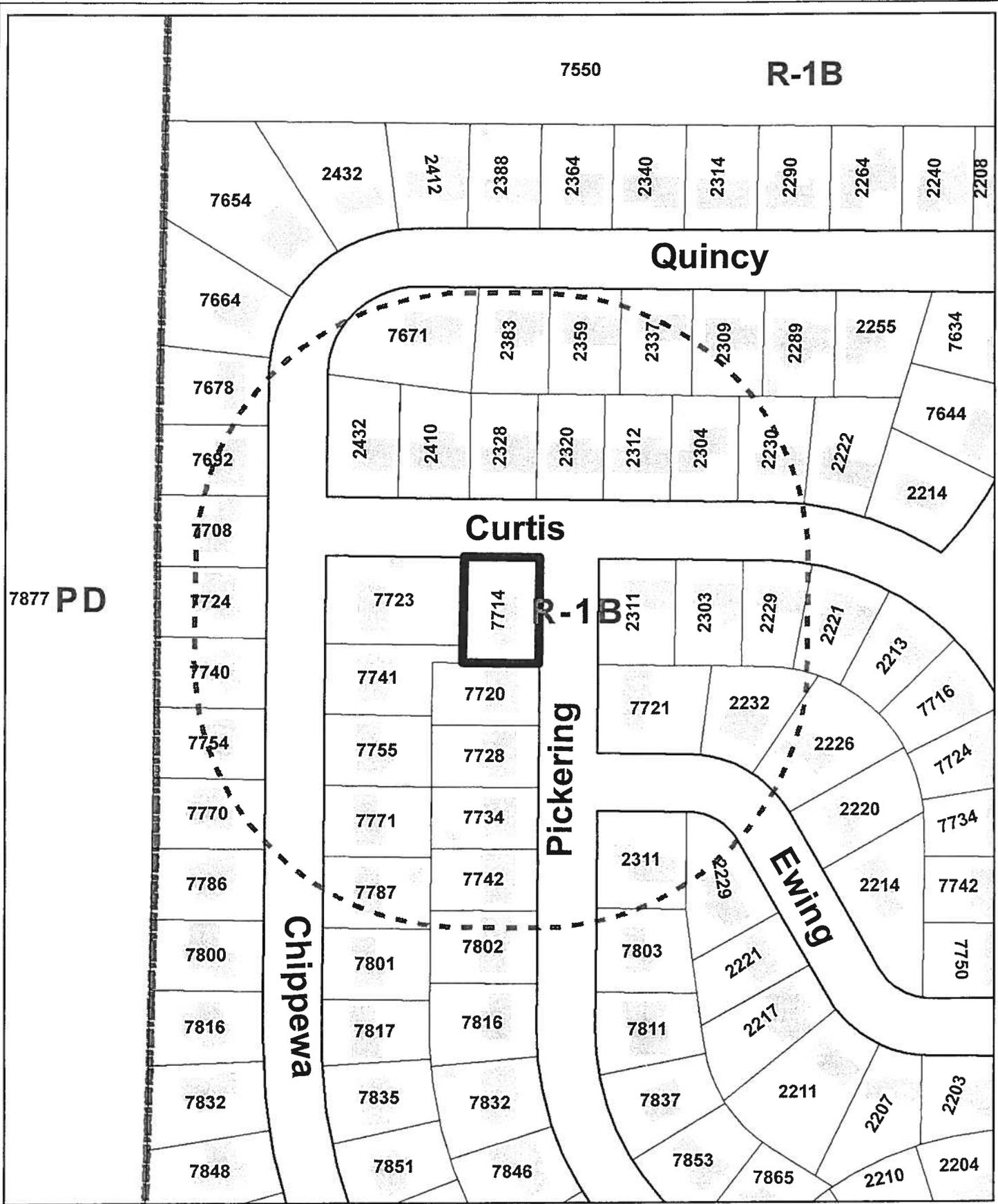
- 1a. That the condition, location, or situation of the specific piece of property or of the intended use of the property is unique to that property and the zoning district in which it is located, which include _____
- 2a. That the building, structure or land cannot be reasonably used in a manner consistent with the uses allowed in the zoning district in which it is located, due to _____
- 3a. That the use variance will not alter the essential character of the neighborhood or the intent of the comprehensive plan, nor be a detriment to adjacent properties.
- 4a. The variance will not materially impair the intent and purpose of this article or the district in which the property is located.
- 5a. That the immediate unnecessary hardship causing the need for the variance request was not created by the applicant.

-or-

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

- 1a. The condition, location, or situation of the specific piece of property or of the intended use of the property is not unique to that property and the zoning district in which it is located.
- 2a. The building, structure or land can be reasonably used in a manner consistent with the uses allowed in the zoning district in which it is located.
- 3a. The use variance may alter the essential character of the neighborhood or the intent of the comprehensive plan, and may be a detriment to adjacent properties.
- 4a. The variance will materially impair the intent and purpose of this article or the district in which the property is located.
- 5a. The immediate unnecessary hardship causing the need for the variance request was created by the applicant.

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.**



7550

R-1B

Quincy

Curtis

R-1B

Pickering

Ewing

Chippewa

7877 PD



1 inch = 150 feet

ZBA 10-19
7714 Pickering Street

Legend

-  Subject Properties
-  300' Notification Boundary
-  Zoning Boundary

RECEIVED

JUN 01 2011



COMMUNITY DEVELOPMENT Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 6/1/11
Name of Applicant Paul A. Aeed Paul A Aeed
Applicant's Address 7714 Pickering St Phone No. 269-760-8748
Name of Property Owner (if different from Applicant)
Address Phone No.

Address of the Property that is the subject of this Application:
Street Address 7714 Pickering St
For Platted Property: Lot 86 of Chippewa Hills No. 1 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 135.00 (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 42 Section 350 Paragraph
Regarding: Use Area Yards
Setbacks Parking Other

Reason for Request (Also complete page 2 of application): Please see attached sheets

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 (10-19), Filing Date (6/1/11), Tentative Hearing Date (6/27/2011). 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.)

Please see attached sheets (3).

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

Date

Application for Variance for 7714 Pickering

I am asking for a variance for the purpose of building a sun room off of my house at 7714 Pickering. My house was built in 1964 before the current Zoning Ordinance was implemented. Due to the unusual shallowness of my corner lot, my property is a legal non-conforming structure grandfathered into the current Zoning Ordinance. My lot is the only lot in the neighborhood that is this shallow.

I am specifically asking for the variance to build a 12' X 24' sun room on the back (West) side of the house (please see attached diagram). Since the lot is so shallow (approximately 85') my house is currently 28' 8" from the back property line. The addition of the 12' sun room would put the back of that room at 16' 8" from the property line. Unfortunately there is no practical, conforming alternative to placing the sun room there. The only side of the house that has enough room to place the sun room (without a variance) is the North side of the house. This is impractical for two reasons. One, a Northern exposure is not practical for a sun room. Two, the North side of the house has no exterior door and is where the bedrooms are located. The proposed West side of the house has the Dining Room sliding door as a convenient entrance to the sun room. A smaller room is also not practical. Twelve feet is close to the minimum depth to make the room practical and functional.

I feel that granting this variance would result in very little impact to my neighbors. We currently have a 12' deep wooden deck and the sun room would be the same depth as the deck. There is a line of screening vegetation at the back of the property line that would screen much of the view of the sun room and the neighbors behind us (7723 Chippewa) have a very deep lot. I also have a petition signed by all of my abutting neighbors (and one neighbor who has a view of my backyard from their backyard) stating that they have no objections to the Board granting my request for a variance (please see attached petition).

Curtis Street



49'

24'

12'

Proposed Sun Room

Existing House
42' 6" X 25'

Existing
Garage
12' 6" X 24'

16' 8"

28' 8"

31' 4"

16'

85' 10"

120'

Pickering Street

Petition for Zoning Variance for 7714 Pickering

As neighbors of 7714 Pickering, we have no objection to the City of Portage granting a Zoning Variance for the building of a 12' X 24' sun room on the West side of 7714 Pickering.

Signature

Address

1. Betsy Portis 7723 Chippewa St., Portage, MI
2. Connie Therkildsen 7741 Chippewa, Portage, MI
3. Arthur R. Studer 7728 Pickering, Portage, MI
4. inf eng 7720 Pickering St. Portage MI



This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. Please contact the City/County for current property assessment information. The user of this map acknowledges that the City/County shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City/County from any and all claims brought by the User, its employees or agents, or third parties which arise out of the Users access or use of data provided. **IN OTHER WORDS, USE AT YOUR OWN RISK !!**



TO: Zoning Board of Appeals **DATE:** June 17, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: ZBA #10-19; Paul Aeed, 7714 Pickering Street, R-1B, One Family Residential.

CODE SECTION: 42-350A, Schedule of Regulations, p. CD42:84
42-133(D), Nonconforming Structures, p. CD42:43

APPEAL: Requesting a variance to expand a nonconforming dwelling by constructing a 12-foot by 24-foot sunroom 16 feet from the rear (west) property line where a 40-foot rear yard setback is required.

STAFF RECOMMENDATION: The applicant requests the above variance per the enclosed application and attachments. The 0.23 acre parcel is a corner lot with 120-feet of frontage on Pickering Street (width) and 85-feet of frontage on Curtis Avenue (depth). Lot 86 of Chippewa Hills No. 1 is improved with a 1,008 square-foot residential dwelling and attached 276 square-foot garage that were constructed in 1964. The dwelling is legally non-conforming as it does not meet the minimum 40-foot rear yard setback from the rear (west) property line, and does not meet the minimum floor area requirement. The parcel is surrounded by other single-family residences zoned R-1B.

The applicant proposes to construct a 12-foot by 24-foot (288 square-foot) four-season sun room along the west side of the dwelling approximately 16 feet from the rear (west) property line. A wooden deck approximately 12 feet in width is currently situated along west side of the dwelling, where the sun room is proposed and will be removed. Based on the limited depth of the property (85-feet) and the non-conforming nature of the dwelling with a 28-foot rear yard setback, construction of the sun room within the rear yard of the site can not occur without the requested variance.

There are exceptional and extraordinary circumstances that apply to the property including the limited lot depth, orientation of the dwelling on the lot, and non-conforming status of the dwelling. The practical difficulty was not self-created and conforming alternatives are not readily available. The addition of 288 square feet of living area would eliminate the nonconforming status of the dwelling living area. While the sun room could be located along the north side of the existing dwelling and meet the minimum 30-foot front yard setback, the location is not practical given the interior layout of the residence and would require interior access to the sun room through an existing bedroom. The variance will not be detrimental to adjacent property and the surrounding neighborhood and will not materially impair the intent and purpose of the Zoning Code. Adjacent residences located to the west are situated in excess of 100-feet from the proposed sun room. Additionally, mature evergreen trees are located along the west and north sides of the property that provide screening to the adjacent residences to the west, as well as from Curtis Avenue to the north. For these reasons the variance can be recommended.

PRACTICAL DIFFICULTY: Legal non-conforming residential dwelling, orientation of dwelling on lot, limited lot depth, no conforming alternative locations within rear yard of site, elimination of nonconforming living area.

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:

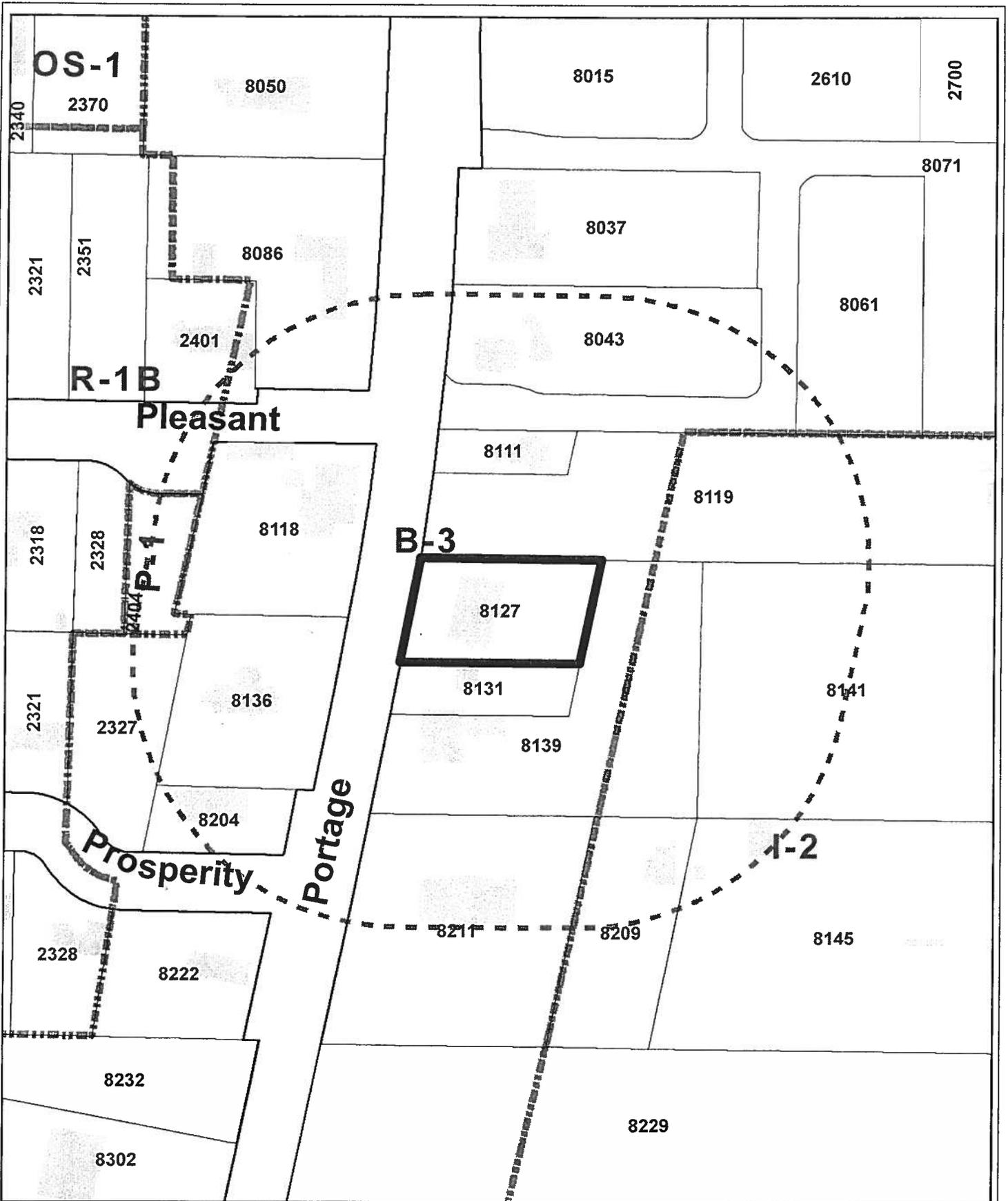
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right 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 = 150 feet

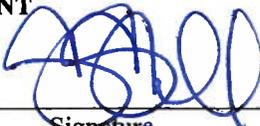
ZBA 10-20 8127 Portage Road

Legend

-  Subject Properties
-  300' Notification Boundary
-  Zoning Boundary

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 6/3/2011
 Name of Applicant Sheila Shubnell 
Print Signature
 Applicant's Address 4737 Black Oak Ln, Kalamazoo, MI 49004 Phone No. (269) 207-7676
 Name of Property Owner (if different from Applicant) Bob Nicola
 Address _____ Phone No. (269) 720-2309

Address of the Property that is the subject of this Application:
 Street Address 8127 Portage Rd, Portage, MI 49002
 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: To use rear parking lot for a Farmer's market one night a week over the summer.
 Application Fee _____ (Residential Uses) \$330 (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): _____

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: To host a farmer's Market in rear parking lot on Monday evenings from 3pm to 7pm, June to Sept annually

FOR STAFF USE

Application Number: <u>10-20/10-10000018</u>	Filing Date: <u>6/3/11</u>	Tentative Hearing Date: 6/13/11 <u>6/27/11</u>
Previous Application Filed Regarding This Property: <u>NONE</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.)
N/A
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)
N/A
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.)
N/A
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.)
N/A
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.)
N/A
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.)
N/A
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
N/A


Signature of Applicant

Jan 3, 2011
Date



Grow Organic. Better for you. Better for our earth.

May 31, 2011

To whom it may concern,

I would like to bring together a farmer's market in the Portage community. With permission of the property owner and neighboring properties, I would like to host the market in the rear parking lot of 8127 Portage Rd., Portage, MI, 49002. The market would be held on Monday evenings from 3p.m. to 7p.m. starting the second Monday in June and end the third Monday in September. I plan on the market being relatively small, consisting of approximately ten vendors. I would expect to see around 20 to 40 customers over the course of the four hour time period. Some parking is available on the property, however if additional parking is needed, Burger King has offered to let us use there parking lot.

The farmer's market will offer local vendors a place to distribute their fresh produce directly to our local community. We do not plan on charging the vendors to be part of our farmer's market. We simply want to offer a place for the local consumers to network and get to know there local farmers, as well as get higher quality, homegrown produce on their family's table. Not only will this serve as a base in building a stronger community, but it can directly strengthen our local economy as well. The type of vendors we would like to see at our farmer's market is preferably those who practice organic methods of gardening. This will help insure that our consumers will be receiving a good standard of quality in the produce offered at our market. I hope that you will see the benefits of having a farmer's market in Portage. I am eager to be part of this great opportunity!

Thank you!

Sheila Shubnell
Green Earth Hydroponics

May 31, 2011

To whom it may concern,

The barber shop will close Monday evenings at 3p.m. for the farmer's market to be held in the rear parking lot. The farmer's market will be held from June to September. Thereafter, we shall resume our normal hours. If you have any questions please feel free to contact us.

Regards,

A handwritten signature in black ink that reads "Dick Beatty". The signature is written in a cursive style with a large, stylized initial "D".

Dick Beatty

Barber Shop

8127 Portage Rd.

Portage, MI 49002

269.329.6078

TO WHOM IT MAY CONCERN;

**WE THE MANAGEMENT TEAM AT
BURGER KING
8215 PORTAGE ROAD
PORTAGE MICHIGAN
49002**

**HAVE AUTHORIZED THE USE OF OUR
PARKING LOT FOR OVERFLOW
PARKING FOR A FARMERS MARKET
LOCATED AT A NEIGHBORING
BUSINESS**

**SHOULD YOU HAVE ANY QUESTIONS
OR CONCERNS PLEASE CALL
MADELINE KELLEY OR
ZACK SCHAEFFER
269-329-0212**

THANK YOU,

Zack Schaeffer
5-13-11



We know good food.

April 25, 2011

To Whom It May Concern:

I am writing on behalf of People's Food Co-op to support the proposal by Sheila Shubnell to create a farmers' market in the parking lot of Green Earth Garden Shop at 8127 Portage Road. I have had the pleasure of talking with Ms. Shubnell about her vision and her plans, and have been impressed and inspired by her passion and her drive.

People's Food Co-op has an interest in supporting projects that get more locally grown, delicious and nutritious foods onto people's dinner tables while building and supporting the local economy and community. Farmers' markets are a great way to do all of this!

A study in 2006 report showed that for every \$19 spent at a farmers' market, an additional \$48 in economic activity was generated¹. Since People's Food Co-op began our 100-Mile Market on Wednesday afternoons, our own sales on that day have increased over 10%. Additionally, many of the businesses around us have expressed how glad they are for the extra traffic that our market drives in their direction. A farmers' market in the area of Ms. Shubnell's store will not only support the local farming community and economy, but also drive more people to shop at her store and the stores around hers.

Additionally, possibly with our help, Ms. Shubnell has a goal of integrating SNAP (food stamps) benefits access into her market next year. This will certainly aid in getting better food into the stomachs of children who may otherwise not have access. Additionally, the USDA describes the economic effects of SNAP in this way:

"Research shows that every \$5 in new SNAP benefits generates as much as \$9.00 in economic activity. SNAP benefits move quickly into local economies, with 97 percent of SNAP benefits redeemed within a month. It is estimated that at least 8,900 full-time equivalent jobs are created from \$1 billion of SNAP benefits".²

Clearly, farmers' markets are a great way to address several needs at once. I hope that you will support Ms. Shubnell's proposal, and that you will feel free to contact me with any questions you might have.

Sincerely,

Chris Dilley, general manager

¹ <http://www.pps.org/articles/measuring-the-impact-of-public-markets-and-farmers-markets-on-local-economies/>

² <http://www.fns.usda.gov/cga/PressReleases/2011/0154.htm>





323 North Burdick Street, Kalamazoo, Michigan 49007 269.492.1270 www.fairfoodmatters.org

MISSION

To build, educate, support
and empower our community
around local food.

VISION

We envision thriving local
communities worldwide
growing and distributing safe,
nutritious, locally produced
foods that foster healthy
communities, environments,
and economies.

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Fair Food Matters is a 501(c)(3)
tax deductible organization
ID: 02-0612573

May 31 2011

To whom it concerns:

We are happy to support Sheila Shubnell and her efforts to bring another farmers' market to our community.

Michigan's "agri-business" sector offers our state a \$71 billion per year economic impact, and is the second-largest (and fastest-growing) sector. Clearly, our economic fortunes and agricultural heritage are intimately connected.

It is no coincidence that our organization pursues similar goals – bringing about positive social change within the region using one of our most wonderful natural resource: food!

Once again, we are pleased to offer our enthusiastic support to Ms. Shubnell as she pursues this very worthy effort. We hope you will keep in mind the many benefits her work can bring to the community as you decide its fate.

Sincerely,

Paul A. Stermer
Executive Director

8127 Portage Road



This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. Please contact the City/County for current property assessment information. The user of this map acknowledges that the City/County shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City/County from any and all claims brought by the User, its employees or agents, or third parties which arise out of the Users access or use of data provided. **IN OTHER WORDS, USE AT YOUR OWN RISK !!**

TO: Zoning Board of Appeals **DATE:** June 17, 2011
FROM: Jeffrey M. Erickson, Director of Community Development
SUBJECT: ZBA #10-20, Sheila Shubnell, on behalf of Green Earth Hydroponics, 8127 Portage Road, B-3 General Business

CODE SECTION: 42-622(D), Temporary Uses, p. 42:140.3.

APPEAL: Requesting a Temporary Use Permit for an outdoor farmer's market each Monday from July through September 2011, and each Monday during June through September 2012 and annually thereafter.

STAFF RECOMMENDATION:

The applicant with the approval of the property owner is requesting the above referenced Temporary Use Permit per the enclosed application, plan, letter of explanation, and other materials. The .57 acre site is improved with a 3,072 square foot commercial building, which accommodates Green Earth Hydroponics, The Barber Shop, and an off-street parking lot. The property is adjacent to commercial properties to the west, north and east, and to a legal nonconforming residence to the south (8131 Portage Road).

The applicant proposes to operate a farmer's market on a seasonal/temporary basis. The proposed market would occupy a 121-foot by 50-foot area in the east end of the rear (east) parking lot, where approximately ten vendors would set up sales areas. The hours of operation would be on Monday afternoons from 3 p.m. to 7 p.m. July through September 2011, and annually thereafter on Monday afternoons from June through September 2012. The applicant anticipates drawing 20 to 40 customers over the course of the four hour time period.

A total of 39 parking spaces exist, 17 of which are required parking spaces, based on the current tenants. The farmer's market would occupy 21 parking spaces during the hours of operation. No impact on traffic circulation in and out of the site would occur. The Barber Shop has agreed to close on Mondays at 3 p.m. during the months the farmer's market would be in operation. Burger King, 8125 Portage Road (located 170 feet south of 8127 Portage Road) has agreed to provide overflow parking if needed.

The proposed Temporary Use Permit does not involve permanent structures or capital improvements, which is consistent with the intent of the B-3 General Business district. It is recommended the Board approve the Temporary Use Permit for 2011 conditioned on: 1) a maximum of 10 vendors be situated as proposed in the east parking lot; 2) maintaining 17 spaces for existing businesses; and 3) the temporary use permit be reviewed by the Zoning Board of Appeals not later than October 2011 at which time the Temporary Use Permit can be reviewed and considered for annual administrative approval. Issues and concerns that may develop that involve the number of vendors and the number of customers, hours of operation, off-street parking needs (and overflow), any complaints received, among others, can be properly considered.

PRACTICAL DIFFICULTY: Not applicable.