

CITY OF
PORTAGE
A Place for Opportunities to Grow

ZONING BOARD OF APPEALS

September 12, 2011

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, September 12, 2011

(7:00 pm)

**Portage City Hall
Council Chambers**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * June 27, 2011

OLD BUSINESS:

NEW BUSINESS:

- * ZBA# 11-1, 5900 Portage Road: Roga is requesting a variance to modify a nonconforming freestanding sign at 5900 Portage Road.
- * ZBA# 11-3, 5220 South Westnege Avenue: W.B.C. Properties is requesting a variance to erect a freestanding sign at the front property line, where a minimum ten-foot setback is required.

Election of Officers

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

Star (*) indicates printed material within the agenda packet

CITY OF PORTAGE ZONING BOARD OF APPEALS
Minutes of Meeting – June 27, 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. Three people were in the audience.

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

MEMBERS EXCUSED: Donald Mordas

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

APPROVAL OF THE MINUTES: Felicijan moved and Singer seconded a motion to approve the May 9, 2011 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA #10-17, 121 Boston Avenue & 5747 South Westnedge Avenue: Staff summarized the request for a use variance for a single-family residential use in a B-3, General Business zone. Mr. Jay Sharma was present and explained he had listed the property at 121 Boston for lease as a business for almost two years and had gotten no responses to the listing. Mr. Sharma indicated he leased the property as a residence out of financial hardship and only wished to lease the former dwelling as a residence for one year, as opposed to the two years indicated by staff. Linenger stated the Board could not grant a variance based on a financial hardship. Linenger added the property has been zoned B-3, General Business since before the applicant purchased it, and having been used as a business by the applicant for years, worked against any argument that the property could not reasonably be used for permitted (commercial) uses. Bunch inquired if the applicant's request for one year residential use as opposed to two years had any bearing on the propriety of a Temporary Use Permit. Staff responded the reason a Temporary Use Permit was not applicable in this case was because the use of the property at 121 Boston Avenue involved an existing building and permanent capital improvements.

A public hearing was opened. A letter from Julee Burke, 129 Boston in opposition to the request was read. Mr. Sharma stated the tenants referenced in Ms. Burke's letter only violated City Code one time that he was aware of. Singer stated whether or not the tenants were 'good' or 'bad' would have no bearing on the Board's decision. The public hearing was closed.

A motion was made by Felicijan, supported by Seyburn, to deny a use variance for a single-family residential use in a B-3 General Business zone for the following reasons: the condition, location, or situation of the specific piece of property or the intended use of the property is not unique to that property and zoning district; the building, structure or land can be reasonably used in a manner consistent with the uses allowed in the zoning district; the variance would materially impair the intent and purpose of this article or the district in which the property is located; the immediate unnecessary hardship causing the need for the variance request was created by the applicant. 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, Seyburn-Yes, Singer-Yes, Bunch-Yes, Bright-Yes, the motion carried 7-0.

ZBA #10-19, 7714 Pickering Street: Staff summarized the request for 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. Mr. Aeed was present to answer any questions. Linnenger inquired if the applicant intended to use the addition as a bedroom. Mr. Aeed stated he intended to use it as a sunroom. Seyburn noted the lot seemed small for a corner lot.

A public hearing was opened. A petition was read stating no objection to the request signed by the owners of 7723 Chippewa, 7741 Chippewa, 7728 Pickering, and 7720 Pickering. The public hearing was closed.

A motion was made by Seyburn, seconded by Bunch to grant 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 for the following reasons: there are exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include the lot is a narrow corner lot, the location of the dwelling on the lot, the presence of mature evergreens, the adjacent residence to the west is over 100 feet away, and the variance would eliminate the non-conforming living area; the immediate practical difficulty causing the need for the

variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood, and; 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. Upon roll call vote: Linenger-Yes, Schimmel-Yes, Felicijan-Yes, Seyburn-Yes, Singer-Yes, Bunch-Yes, Bright-Yes, the motion carried 7-0.

ZBA# 10-20, 8127 Portage Road: Staff summarized the request for 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. Sheila Shubnell was present to answer any questions. Felicijan noted the applicant got permission from Burger King to accommodate any potential overflow parking, and inquired how the applicant would notify patrons of this fact. Ms. Shubnell stated she intended to use the existing changeable copy board on site for that purpose. Linenger noted the site had designated entrance and exit drives and stated the one concern he had would be if patrons parked in the access drives to the north and south of the building. Ms. Shubnell stated they would be vigilant in directing patrons to park at the Burger King lot.

A public hearing was opened. Letters of support were read from The Barber Shop, 8127 Portage Road; Burger King, 8215 Portage Road; People's Food Coop, 436 South Burdick Street, Kalamazoo; Fair Food Matters, 323 North Burdick Street, Kalamazoo. The public hearing was closed.

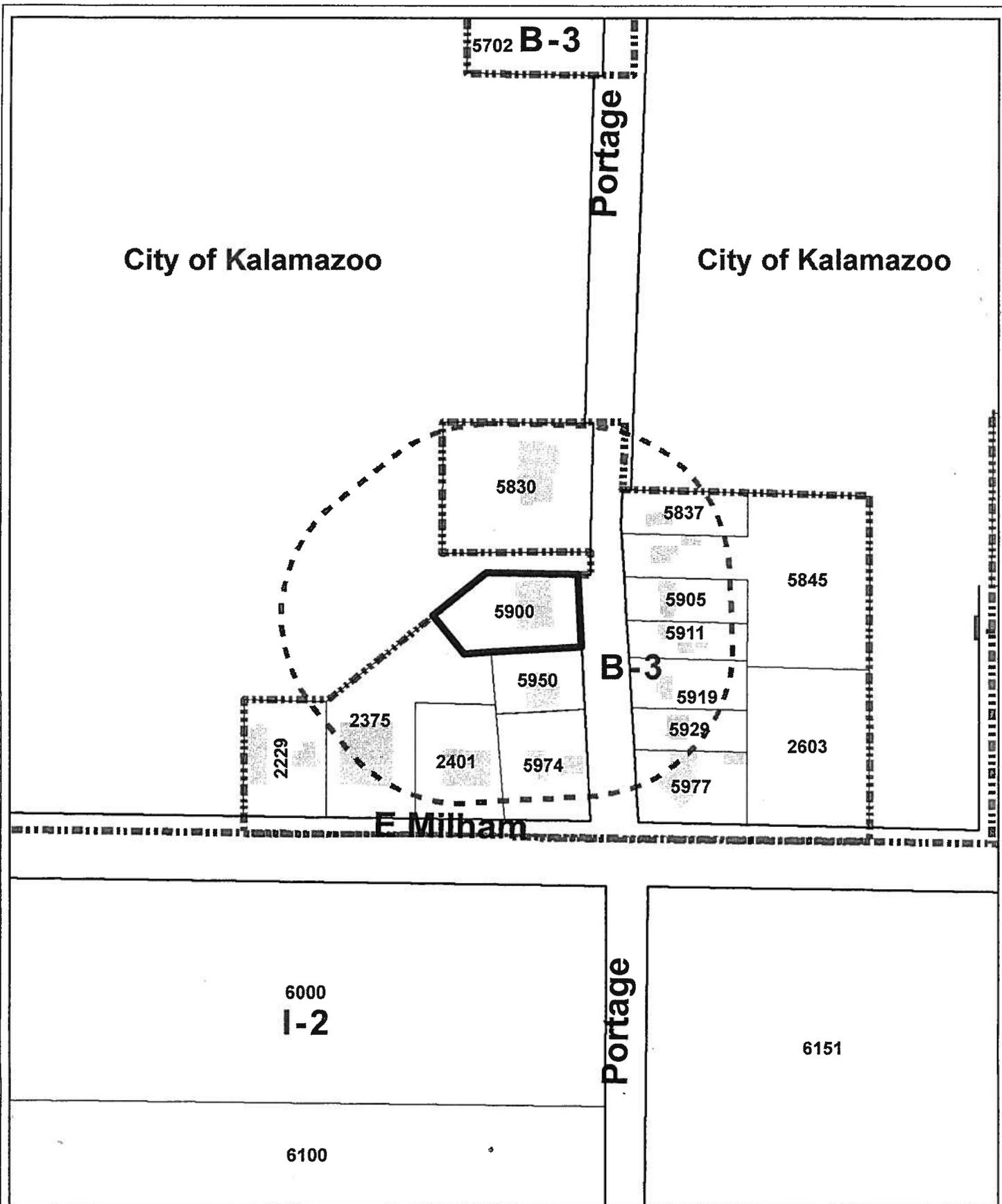
A motion was made by Felicijan, seconded by Singer, to grant a Temporary Use Permit for an outdoor farmer's market each Monday from July through September 2011, and each Monday during June through September 2012 and annually thereafter, conditioned upon 1) a maximum of 10 vendors be situated as proposed in the east parking lot; 2) maintaining 17 parking spaces for existing businesses; and 3) the Temporary Use Permit be reviewed by the Board not later than October 11, 2011 at which time the Temporary Use can be reviewed and considered for annual administrative approval. Upon roll call vote: Linenger-Yes, Schimmel-Yes, Felicijan-Yes, Seyburn-Yes, Singer-Yes, Bunch-Yes, Bright-Yes, the motion carried 7-0.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:10 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



City of Kalamazoo

City of Kalamazoo

ZBA 11-01
5900 Portage Road


1 inch = 267 feet

Legend

-  Subject Properties
-  300' Notification Boundary
-  Zoning Boundary

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AUG 10 2011



COMMUNITY DEVELOPMENT Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 8/8/2011
Name of Applicant ROGA / Gerald A. Goidesik
Applicant's Address 5900 Portage Rd 49002
Phone No. 269-344-5566

Address of the Property that is the subject of this Application:
Street Address 5900 Portage Rd 49002
For Platted Property: Lot of Plat

Applicant's interest in Property that is the subject of this Application: Owner / Landlord

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):
[X] Variance from Zoning Ordinance: Article Section Paragraph
Regarding: Use Area Yards
Setbacks Parking Other

Reason for Request (Also complete page 2 of application): New tenant - change in lettering of 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 (11-1), Filing Date (8/10/11), Tentative Hearing Date (9/12/11); Previous Application Filed Regarding This Property: ZBA 97-18 and ZBA 01-35

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Reason For Variance

See Attached

- 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 note a variance for the sign structure has been approved. This request is only for the change of a tenants signage

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

* A similar request was made and granted Mar 11, 2002

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

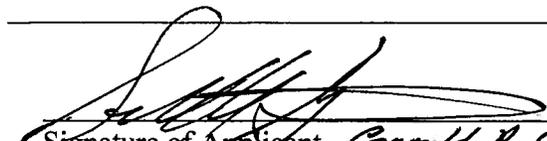
- 4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to other property owners in the area? (Attach additional sheets if needed.)

- 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 *Harold H. Co. ibush*

8-11-2011
Date

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REASON FOR REQUEST

This applicant seeks a variance of zoning provisions requiring that a sign be set back ten feet or more from the property line. This applicant seeks to have the ten foot set back waived so that the leading edge of the sign can be placed up to the property line. Due to the unusually wide right-of-way which extends beyond the curve of Portage Road, in order to comply with the zoning provisions, Applicant would have to place its sign in a location so far back away from the road that it would not be visible to southbound traffic and it would also obstruct access to the entrance for the parking in the front of the building.

Waiving the 10' set back and allowing the Applicant to place the leading edge of its sign near the property boundary would only allow the Applicant to put its sign as close to the road as other property owners in the immediate area. Granting the variance would not, as a practical matter, grant any special benefit to the Applicant, but would grant Applicant only the same benefit as other property owners along Portage Road (with an exception -- the property at 5950 Portage Road -- which is because a 60 foot right-of-way commences at Applicant's property and extends South only to Milham Avenue).

Roga is a Michigan partnership which owns the subject property. The subject property is an office building designed for occupancy by three separate tenants, see Exhibit 1 for legal description. Attached as Exhibit 2 is a proposed design of such a sign which is designed to utilize the allocable square footage under the zoning ordinance. The rectangular shape, where the width is approximately three times the height, provides a low profile which the owner and primary tenant deem attractive and aesthetically pleasing.

Attached as Exhibit 3 is a drawing of the area of the immediate adjoining properties. The particular hardship or difficulty and reason for this request lies in the fact that the property in question (highlighted yellow) is the northern most property of the three properties north of Milham Avenue for which there was a 60.21 foot right-of-way established by the City. This has set this owner's eastern/roadside property line approximately 30 feet farther west than the properties to the north of it. The shaded gray area north of 5900 Portage Road is an area with numerous large evergreens. Exhibit 4 is a drawing (not to scale) showing where Applicant would like to place the sign.

The hardship and practical difficulty encountered by this circumstance is that the sign, which is approximately eighteen feet wide, if it were to be located with its leading edge ten feet back from the property line, poses two substantial problems. The first is that it requires the sign to be placed farther away from the roadway.

Particularly as to southbound traffic, this would leave a sign virtually unseen until someone would be right in front of the property. The second reason, because of the length of the sign (necessary in order to provide signage for the three tenants' of the property) it would end up obstructing a traffic lane which is used for traffic to access Applicant's property for parking in front of the building. Currently, a joint driveway easement is used which runs adjacent to the southern boundary of the property to access parking on the subject property.

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While a change in the design of the sign, such as making it higher, might alleviate the interference with the traffic lane on the property, it would not alleviate the problem of visibility. There is no alternative except to place it nearer to the road. Moreover, a higher sign would be less attractive, which is not only a detriment to the Applicant and its primary tenant, but to the general public as well.

Setting the sign so that the leading edge is ten feet from the eastern/road-side boundary also interferes with reasonable visibility for northbound traffic although clearly not as severe as for the southbound traffic. With I-94 being north of the property, a great deal of the traffic visiting or seeking the businesses at the property comes from the north, thus it is the southbound traffic that would have the most difficult time seeing the sign. Of the other two properties affected, the property on the northwest corner of Milham and Portage Road, is not much impacted. The business there is a Speedway Gas Station which is able to utilize its signage in the corner and with very clear visibility from both Milham and Portage Road. The other property which is occupied by County Farm Bureau and a Farm Bureau Insurance sales office another service group which is similarly situated as 5900 Portage Road. Currently the insurance agency has a sign which does appear to be in compliance with the ten foot set-back. However, even they are not as drastically affected.

If Roga is allowed the variance to waive the ten foot set-back so that the leading edge of the sign could be placed near the eastern property line and using the design as attached, the sign would be low enough so as to leave the Farm Bureau Insurance Agency sign clearly visible. Thus, the variance allowed with the sign and its design would have no adverse affect on anyone. The proposed location of the sign relative to the roadway itself and the shape is consistent with the location and the same design as those properties directly opposite the subject property.

Further, as can be noted from Exhibit 2, on either end of the sign there is a stone pillar. These stone pillars were existing when this Applicant purchased the property. And this is where a previous sign was erected. The sign was removed in anticipation of placing the sign where the Applicant proposes based on the assumption that the leading edge would have been more than 10 feet away from where the Applicant's believed was the eastern edge of the property (now known to be a mistaken belief as to where the eastern edge of the property is).

The property, 5900 Portage Road is uniquely and adversely affected by the sixty foot right of way. With the exception of 5950 (the insurance agency) there are no other businesses that are similarly situated and affected.

Goidosik, Morse, & VanDeusen PLC

Social Security Disability
Workers' Compensation
Personal Injury

CONVERSE MGMT.
COMPANY

CONVERSE
& ASSOC., INC.
REALTORS®

TENANT SPACE
FOR LEASE
344-5566

5900

New

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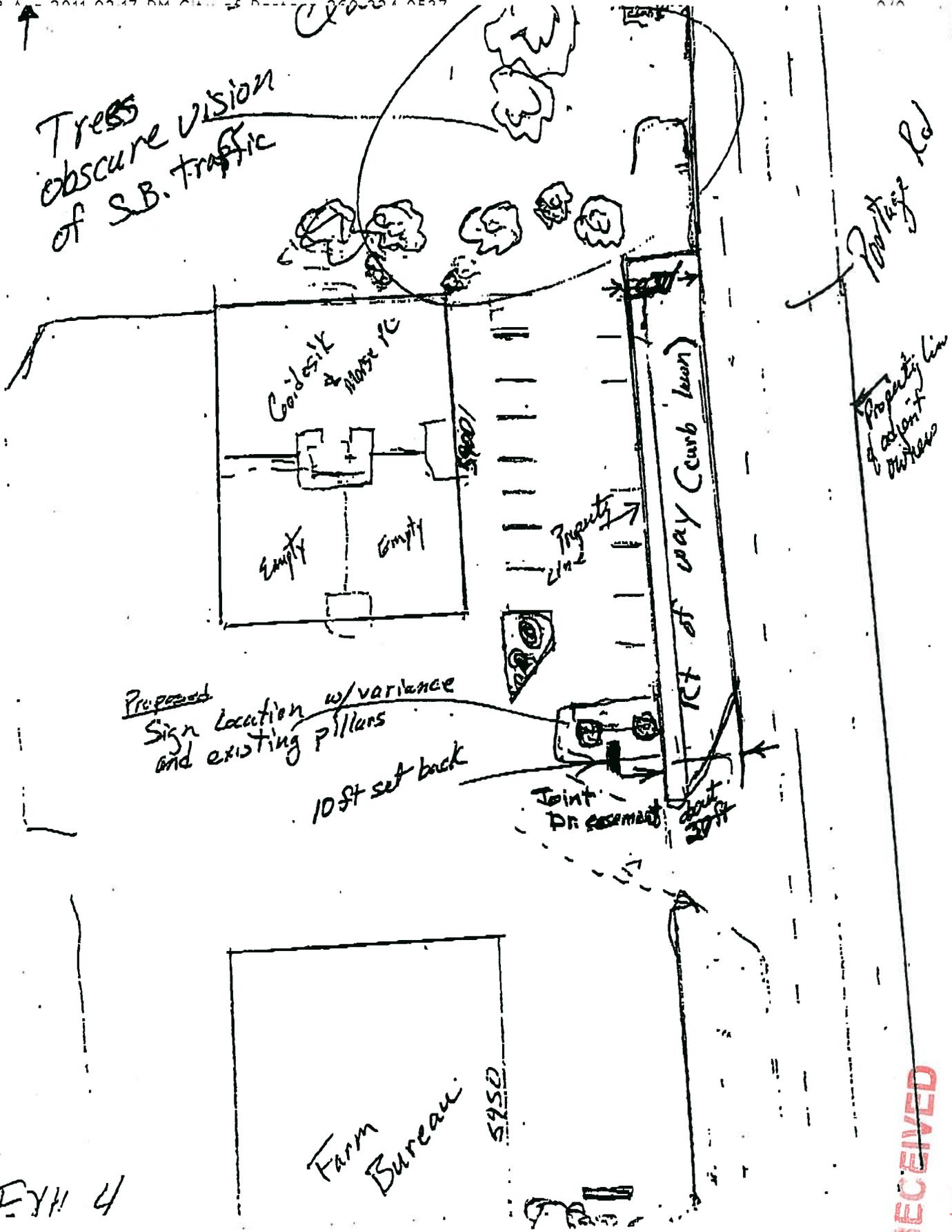
COMMUNITY DEVELOPMENT



OVERALL DIMENSION: 3'-0" X 6'-0" / 2 SECTIONS @ 1'6" X 6'-0"

MODERN NEON SIGN COMPANY / SALES: OLIVER LACLAIR / 269.349.8636
SCALE: 1/2" = 1'-0"

Trees obscure vision of S.B. traffic



Proposed Sign location w/ variance and existing pillars 10ft set back

FYH 4

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76

November 10, 1997

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

A motion was made by Frandsen, seconded Yonke, to grant a variance from the required 10 foot green strip along the west property line, conditioned upon the trees and green strip be installed should the property to the west be developed. The practical difficulty/unnecessary hardship being that the existing trees serve as the required green strip area. Upon a roll call vote: Seeber - yes, Yonke - yes, Flora - yes, Frandsen - yes, Hotchkiss - yes, Lambie - no, Urban - yes. The motion passed 6-1.

NEW BUSINESS:

- 1. ZBA #97-18, Roga, 5900 Portage. Mr. Morse, Mr. Goldosk and Oliver LeClair were present to explain their request for a 10 foot variance from the required 10 foot setback in order to erect a freestanding sign at the front property line to advertise the businesses located at 5900 Portage Road. The Board was concerned that if the road was ever widened the sign could become a vision obstruction. Staff indicated that the property is permitted an 88 square foot sign plus 15 square feet of copy board. The Board and applicant discussed other alternatives.

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

A motion was made by Frandsen, seconded by Lambie to grant a 6 foot variance from the required 10 foot setback in order to erect a freestanding sign 4 feet from the front property line to advertise the businesses at 5900 Portage Road, conditioned upon the sign being moved to a conforming location should the additional right-of-way ever be utilized. The practical difficulty/unnecessary hardship being the excessive right-of-way of Portage Road and visibility of sign for southbound traffic. Upon a roll call vote the motion passed 7-0.

2. ZBA #97-19, Bell Signs, Inc. on behalf of AutoZone, 7400 South Westnedge Avenue. Chris Wright was present to explain his request for a 14 square foot variance from the permitted 100 square feet of wall signage in order to erect a 114 square foot wall sign on the west wall of the new AutoZone store proposed at 7400 South Westnedge Avenue. The applicant indicated they would not be using the total freestanding signage allowed by code and therefore would like to enlarge the wall signage. The applicant was proposing a 98 square foot freestanding sign. Staff indicated that a permit was obtained during business hours earlier that day for a 98 square foot freestanding sign and that it why no information was provided in the staff report. The applicant indicated that no additional freestanding signage will be erected on this site.

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

A motion was made by Lambie, seconded by Flora to grant the request as noted above, conditioned upon no additional pylon/freestanding signage be permitted above the 98 square feet already approved. Upon a roll call vote the motion passed 7-0.

3. ZBA #97-20, Collins Signs on behalf of Home Depot, 6685 South Westnedge Avenue. Jim Golden and Oliver LeClair were present to explain their request for a 437 square foot variance from the permitted 100 square feet of wall signage in order to erect 537 square feet of wall signage on the west wall of the new Home Depot store proposed at 6685 South Westnedge Avenue. The applicant and Board discussed options which would result in a lesser variance being granted. The applicants indicated if they must do without some of the signage they would prefer to lose the "Michigan's Home Improvement Warehouse".

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

A motion was made by Lambie, seconded by Flora to grant a 275 square foot variance from the permitted 100 square feet of wall signage in order to erect 375 square feet of wall signage on the west wall of the new Home Depot store proposed at 6685 South Westnedge Avenue. The practical difficulty/unnecessary hardship being the distance from South Westnedge Avenue and visibility of the store from South Westnedge Avenue. Upon a roll call vote the motion passed 7-0.

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AUG 10 2011

CITY OF PORTAGE ZONING BOARD OF APPEALS

COMMUNITY DEVELOPMENT

Minutes of Meeting - March 11, 2002

The City of Portage Zoning Board of Appeals meeting of March 11, 2002 was called to order by Vice-Chairperson Jim Pearson at 7:00 p.m. in the Council Chambers, Portage City Hall, 7900 South Westmedge Avenue. Six people were in the audience.

MEMBERS PRESENT:

Michael Bogren, Jim Pearson, Henry Kerr, Clyde Flora, Wayne Stoffer, Fredrick Bindemann, and Donald Croft (alt.).

MEMBERS ABSENT:

David Grile

MEMBERS EXCUSED:

None

ATTENDANCE:

Randall Brown, City Attorney; Peter C. Eldridge, Zoning & Codes Administrator; and Jeff Mais, Zoning & Codes Administrator

APPROVAL OF MINUTES:

A motion was made by Kerr, seconded by Flora, to approve the meeting minutes from February 11, 2002 with changes. Upon voice vote the motion passed 7-0.

OLD BUSINESS:

None

NEW BUSINESS:

ZBA #01-35; Roga Co. 5900 Portage Road. Rolland Morse; of Goidosik, Morse, Rosenhagen & VanDeusen P.C., was present to explain the request of a variance to modify a nonconforming freestanding sign to identify a new tenant. Kerr inquired as to where the present sign is located. Staff responded the previous variance granted in 1997 allowed the freestanding sign to be positioned six feet from the front property line. Bogren inquired if the same condition placed on the previous variance should be applied to the variance before the Board. Attorney Brown responded it was not necessary as the variance before the board is to change a sign panel, which does not alter the 1997 variance or the condition placed on that variance.

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

A motion was made by Flora, seconded by Bogren, to grant a variance to modify a nonconforming freestanding sign to identify a new tenant, the practical difficulty being the excessive right-of-way and visibility of sign for southbound traffic. Upon role call vote motion passed 7-0.

TO: Zoning Board of Appeals **DATE:** September 2, 2011
FROM: Vicki Georgeau, ^hDirector of Community Development
SUBJECT: ZBA #11-1; Roga, 5900 Portage Road; B-3, General Business
CODE SECTION: 42-544(B) Nonconforming Signs; p. CD42:128
APPEAL: Requesting a variance to modify a nonconforming freestanding sign at 5900 Portage Road.

**STAFF RECOM-
MENDATION:**

The applicant requests the above variance per the enclosed application, sign sketch, and related materials. The existing 99 square foot freestanding sign (with a 15 square foot changeable copy board) was recently modified by changing an 18 square foot sign panel to identify a new tenant (Converse Management/Converse & Assoc. Inc). The 0.8 acre property at 5900 Portage Road is improved with a 7,081 square-foot office building and off-street parking lot.

As background, the Board initially granted a six-foot variance permitting the freestanding sign at its current location in November, 1997 (ZBA 97-18), and granted a subsequent variance to allow a tenant panel change to the nonconforming sign in March, 2002 (ZBA 01-35). The applicant again requests approval for the recent sign panel change. No structural alterations to the sign are proposed.

There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the mature vegetation located on the property to the north limiting visibility to southbound traffic, and expanded public street right-of-way (the sign is located approximately 30 feet west of the curb line). Both of these conditions were noted during review and approval of the variances granted in 1997 and 2002, and both conditions still exist. The immediate practical difficulty causing the need for the variance was not created by the applicant. In addition, if approved the variance will not be detrimental to adjacent property and will not materially impair the intent and purpose of the Zoning Ordinance.

For the reasons noted above, approval of the variance is recommended. As a condition of approval, it is recommended the sign be moved to a conforming location should the additional right-of-way be utilized for roadway purposes in the future, or if the vegetation is cleared on the adjacent property to the north. In addition, it is recommended the property owner be permitted to change the multi-tenant sign panels without additional review and approval by the Zoning Board of Appeals provided the sign is not structurally altered, and sign permits are obtained for sign panel changes.

**PRACTICAL
DIFFICULTY:**

Excessive right-of-way; limited visibility of sign for southbound traffic. 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:

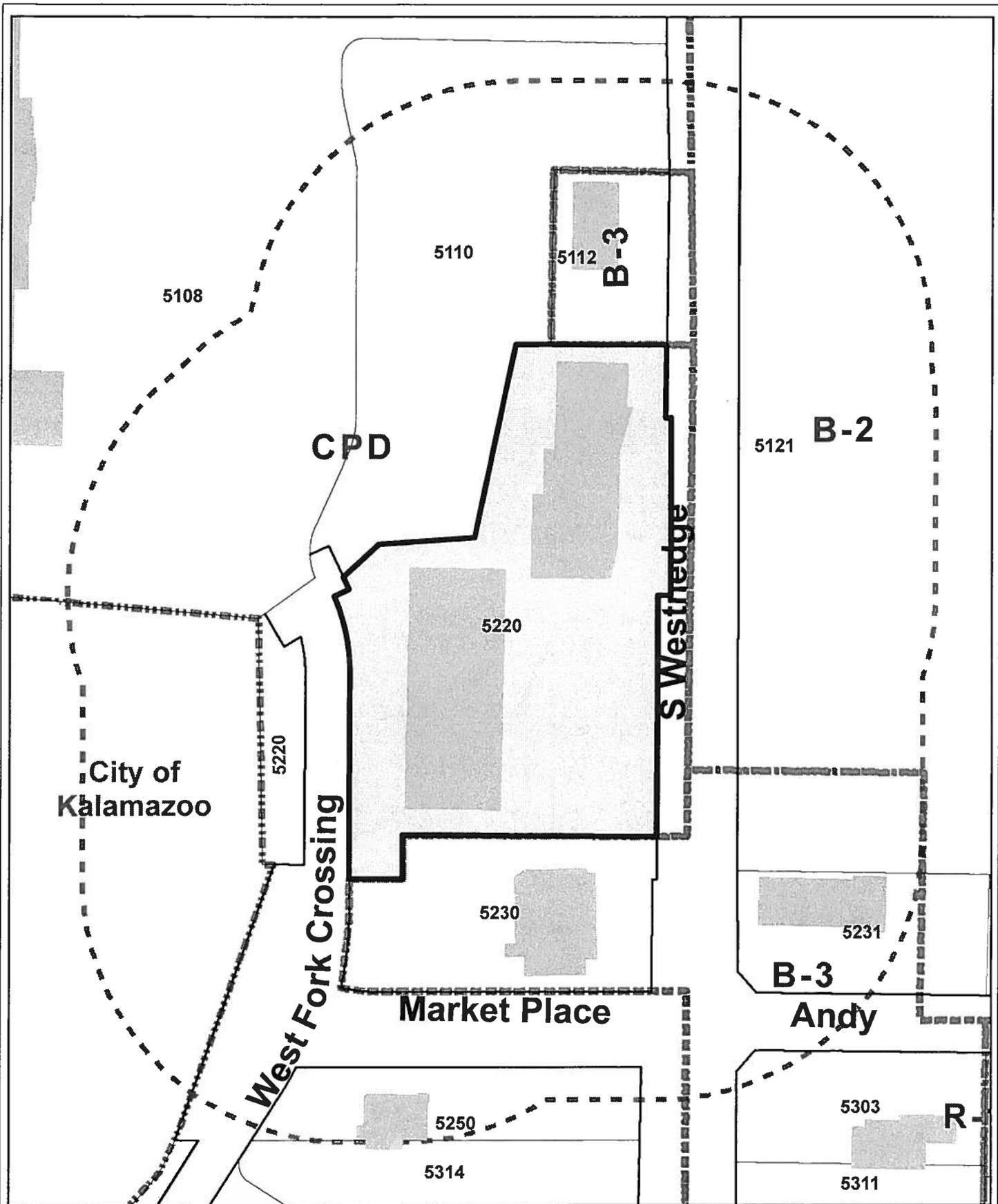
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____
_____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right,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

ZBA 11-03
 5220 South Westnedge Avenue

Legend

-  Subject Properties
-  300' Notification Boundary
-  Zoning Boundary

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 8/18/11
 Name of Applicant W.B.C. Properties Limited Partnership Signature [Signature]
 Applicant's Address 750 Trade Centre Way #100 Phone No. 342-8600
 Name of Property Owner (if different from Applicant) SAME
 Address _____ Phone No. _____

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

Street Address 5220 S. Westnedge Avenue, Portage, MI
 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

Application Fee _____ (Residential Uses) \$ 350. (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): Variance for a zero setback (reqd. 10') to replace existing non-conforming sign and provide safe drive lane.

_____ **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:	Filing Date:	Tentative Hearing Date:
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.)

The distance between the existing building and the ROW is very narrow to allow for parking, signage and required 10' setback.

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

The condition is unique to this property.

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

It can using the existing non-conforming sign. Two signs are needed to replace this sign.

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.)

The requested variance provides the minimum area 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.)

The proposed new signage is part of an overall landscape, parking, building and signage improvement plan for the property.

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 variance is requested to allow for wider drive lane in front of the building and provide for good visibility from both directions.

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.)

Previous property owner and increase in ROW.

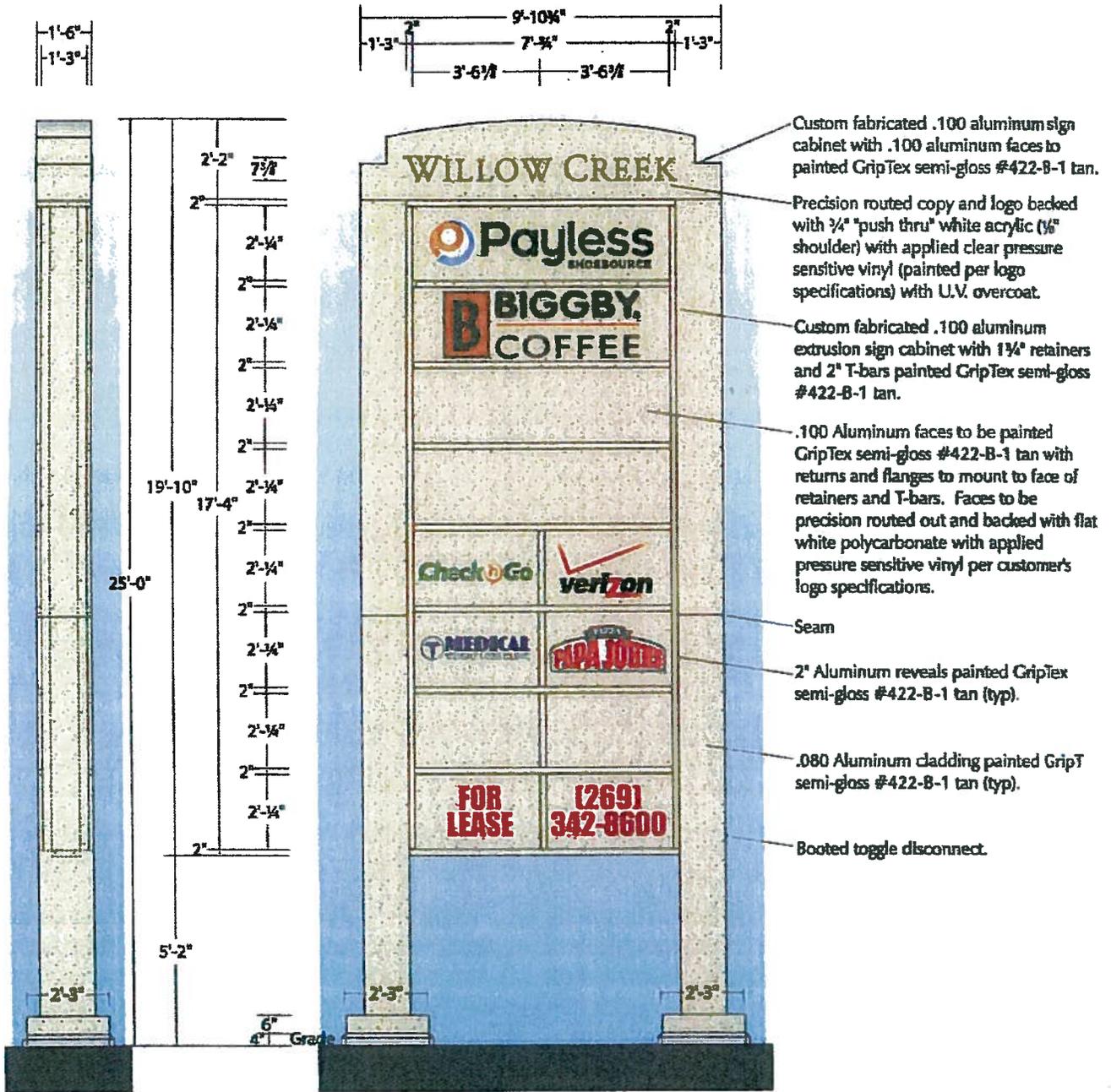
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

Removes a non-conforming 40' tall sign and provides for safe access/drive lane in front of the building for public and fire safety use.

John Henry
Signature of Applicant

8-18-11
Date

PYLON SIGN



Willow Creek

scale: 1/4"=1'

Sign #2 on site plan - Willow Creek

TO: Zoning Board of Appeals **DATE:** September 2, 2011
FROM: Vicki Georgeau, Director of Community Development
SUBJECT: ZBA #11-3; W.B.C. Properties Limited Partnership, 5220 South Westnedge Avenue; CPD, Commercial Planned Development
CODE SECTION: 42-552(G) CPD, Commercial Planned Development Signs; p. CD42:131
APPEAL: Requesting a variance to erect a freestanding sign at the front property line, where a minimum ten-foot setback is required.
STAFF RECOMMENDATION: The applicant requests the above variance per the enclosed application, site sketch, and sign sketch. The 4.59 acre property is improved with two commercial buildings comprising the "Willow Creek Shopping Center", off street parking lot, and related improvements. The property is zoned CPD, Commercial Planned Development and is surrounded by other commercial properties.

The property currently accommodates a freestanding sign erected in the 1960's. The sign is nonconforming because it measures 388 square feet in area, is 40 feet tall, and is located at the front property line. Based on the South Westnedge Avenue street frontage and number of tenants, the Zoning Code allows up to two freestanding signs (maximum 180 and 141 square feet in area). As part of an overall update of the shopping center that includes building façade improvements, modifications to the parking lot and landscaping, the applicant proposes to remove the nonconforming sign and place two freestanding signs on the premises. As shown in the site sketch, the first sign will be centrally located in front of the southern building, and the second sign is proposed in front of the northern building. Both signs would conform with regard to height and area, but the second sign would be located zero feet from the front property line, and a 10-foot variance is requested.

As additional information for the Board, the final phase of the South Westnedge Enhancement Project (SWEPS) is scheduled for completion in ten years. The improvements would include construction of an additional lane and sidewalk in front of the subject property, and given the minimal setback of the northern building, may necessitate the relocation of site improvements, including the sign. The applicant has proposed a freestanding sign that will be bolted to a concrete foundation to facilitate removal/relocation of the sign at a later date. Finally, the Department of Transportation and Utilities has reviewed the sign location and design and determined the sign will not create a vision obstruction for motorists exiting the site.

There are exceptional circumstances applying to the property that do not generally apply to other properties in the same zoning district and include the following:

- A portion of the north building is setback only 40 feet from the (east) front property line;
- A portion of the north parking lot has a nonconforming 15-foot wide maneuvering lane (where 22 feet is required);
- Due to the above conditions, placement of a sign in front of the north building that meets the minimum ten foot setback requirement is not feasible;

- If the sign were to be moved further south to a location where the setback is in compliance, a separation distance variance between the two signs would be needed.
- The immediate practical difficulty causing the need for the variance was not created by the applicant.

The replacement of the existing nonconforming sign with two smaller signs, which would conform to height and area (and in the case of the southern sign, setback) requirements represents a reduction in the degree of nonconformity. In addition, as noted above, the new signs are part of an overall upgrade to the shopping center. The variance will not be detrimental to adjacent property and the surrounding area and will not materially impair the intent and purpose of the Zoning Ordinance.

For the above noted reasons, the variance is recommended for approval. As a condition of the variance, it is recommended the property owner be permitted to change the multi-tenant sign panels without additional review and approval by the Zoning Board of Appeals provided the sign is not structurally altered, and sign permits are obtained for sign panel changes.

**PRACTICAL
DIFFICULTY:**

Significant right-of-way width; location of north commercial building and shallow setback; reduction in degree of nonconformity of existing sign. 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.**