

CITY OF
PORTAGE

A Place for Opportunities to Grow

ZONING BOARD OF APPEALS

November 14, 2011

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, November 14, 2011

(7:00 pm)

**Portage City Hall
Council Chambers**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * October 10, 2011

NEW BUSINESS:

- * ZBA# 11-8, 723 Lakeview Drive: Bill Kozar, on behalf of Alexander Hanchar, 723 Lakeview Drive, is requesting a 12-foot variance from the 40-foot minimum rear (north) yard setback, to construct a new 3,427 square-foot two-story dwelling.
- * ZBA# 11-9, 7324 Oakland Drive: Glas Associates, on behalf of Michael and Patricia Chen, 7324 Oakland Drive, is requesting a 3.5 foot variance from the 14-foot maximum building height requirement to construct a 17.5 foot high detached accessory building.
- * ZBA# 11-10, 801 East Centre Avenue: Thomas Rogers, 801 East Centre Avenue, is requesting a 10-foot front yard setback variance to construct a wheelchair ramp to within seven feet of the front property line, where a 17-foot front yard setback is required.
- * ZBA# 11-11, 6020 Lovers Lane: Sharon Glascock, on behalf of Salon Pura Vida, 6020 Lovers Lane, 1901 Romence Road Parkway, is requesting a variance to erect a freestanding sign at the front property line, where a minimum 10-foot setback is required.

STATEMENT OF CITIZENS:

ADJOURNMENT:

Materials Transmitted

Star (*) indicates printed material within the agenda packet

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CITY OF PORTAGE ZONING BOARD OF APPEALS

 **DRAFT**

Minutes of Meeting – October 10, 2011

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

MEMBERS PRESENT: Timothy Bunch, Lowell Seyburn, Daniel Rhodus, Betty Schimmel, Rob Linnenger, David Felicijan, and Jeff Bright.

MEMBERS EXCUSED: Mariana Singer

MEMBERS ABSENT: Donald Mordas

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

APPROVAL OF THE MINUTES: Felicijan moved and Seyburn seconded a motion to approve the September 12, 2011 minutes as submitted. Upon voice vote, motion was approved 7-0.

OLD BUSINESS:

ZBA #10-20, 8127 Portage Road. Staff provided a status update on the Temporary Use Permit that the Board had approved on June 27, 2011 for Sheila Shubnell, on behalf of Green Earth Hydroponics, to operate a farmer's market at 8127 Portage Road. Staff reported the farmer's market had low turnout of both customers and vendors, no problems were reported or observed during the course of the four times it operated, and appeared generally to have had minimal impacts as a result.

A 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 Felicijan, seconded by Bright, to approve a Temporary Use Permit for Sheila Shubnell, on behalf of Green Earth Hydroponics, to operate an outdoor farmer's market on Mondays from 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; and 3) the Temporary Use be reviewed by staff annually hereafter. Upon voice vote motion passed 7-0.

NEW BUSINESS:

ZBA #11-4, 7085 Sandpiper Street. Staff summarized the request for a three-foot rear yard setback variance to construct a 12-foot by 18-foot sunroom to within 37-feet of the rear property line, where a 40-foot rear yard setback is required. Paul Honeysett was present and explained he wished to construct a sunroom that would match the setbacks and footprint of where the rear deck is currently situated. Felicijan inquired if the applicant intended to use the addition as a sunroom. Mr. Honeysett stated yes. Rhodus noted a three foot discrepancy between where the applicant indicated the rear property line was and the plat boundary depicted on GIS. The applicant stated he has confirmed the measurements in the field and is confident they are accurate. Staff added the GIS mapping system is not survey accurate, and measurements have to be field verified by the property owner or applicant.

A 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 Felicijan, supported by Bright, to grant a variance for a three-foot rear yard setback to construct a 12-foot by 18-foot sunroom to within 37-feet of the rear 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 dwelling's 35 foot front setback, the variance will not be detrimental to adjacent property and will not materially impair the intent and purpose of the zoning ordinance. In addition, the application and related materials, staff report and all discussion and additional materials presented at this hearing shall be incorporated into the record of this hearing and the findings of the Board, and action of the Board shall be

final and effective immediately. Upon roll call vote: Schimmel – Yes, Linnenger –Yes, Seyburn-Yes, Rhodus - Yes, Bunch-Yes, Bright-Yes, Felicijan-Yes. The motion carried 7-0.

ZBA #11-05, 2404 Fairfield Road. Staff summarized the request for a 30 square-foot variance to retain a 256 square-foot shed and 528 square-foot garage with a combined area that exceeds the ground floor living area of the dwelling. Mr. Kilkelly stated when the shed was constructed 16 years ago he believed the contractor had obtained the proper permits, but that was not the case and he has been working hard with staff to find solutions since he last was before the Board a year ago. He stated he already combined his two contiguous lots, re-measured all structures, and modified his proposal so it would meet codes as much as possible. Seyburn inquired if the breezeway created by attaching the shed and garage with a common roof counted towards the accessory building area. Staff stated the roof attachment eliminated the applicability of the 10-foot building separation requirement and that Section 42-121 specifically exempted breezeways being counted towards accessory building area.

A 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 Felicijan, seconded by Bunch to grant a 30 square-foot variance to retain a 256 square-foot shed and 528 square-foot garage with a combined area that exceeds the ground floor living area of the dwelling, as there are exceptional circumstances applying to the property that do not apply generally to other properties in the zoning district which include it is adjacent to developed commercial property to the south and east and is screened from view to the east and south by a six-foot opaque fence and mature vegetation; the house is located directly in front of the shed and blocks the view from the north; the applicant owns the adjacent lot to the west at 2324 Fairfield Road; 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 related materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated into the record of this hearing and the findings of the Board, and that action of the Board shall be final and effective immediately. Upon roll call vote: Seyburn-Yes, Rhodus-Yes, Schimmel-Yes, Felicijan-Yes, Linnenger-Yes, Bunch-Yes, Bright-Yes, the motion carried 7-0.

ZBA #11-06, 8585 Portage Road Staff summarized the requests for variances from two special land use provisions for a commercial kennel: a) a 380-foot variance from the 500-foot setback from a residential district boundary; and b) a variance from the enclosure requirements for outside exercise areas. Shannon Reeves explained Wiggles Waggles and Tails has been open for a year and when they initially received approval for a Special Land Use Permit by the Planning Commission last year, they did not anticipate there would be any demand for overnight boarding, however, numerous customers have since inquired prompting this request. Customers have noted a lack of boarding facilities in town and are compelled to board in other surrounding communities. Ms. Reeves stated their staff is already present and monitoring the exercise area whenever the dogs are outside. Bright inquired who owned the adjacent undeveloped properties. Ms. Reeves stated Pfizer owned the adjacent heavily wooded parcels. Felicijan inquired how boarding kennels are typically configured. Ms. Reeves explained most kennels have a ‘U’ shaped kennel configuration with both indoor and outdoor access, her proposal, however, entailed the kennels being entirely within the existing building. Felicijan stated that while he supported the growth of small businesses, a 380-foot variance request was quite substantial and struggled finding a practical difficulty. Schimmel inquired if anything in the city codes requires employees to be present 24 hours a day at overnight boarding kennels. Staff responded no.

A public hearing was opened. A letter, dated September 10, 2011 from Wiggles, Waggles and Tails, 8585 Portage Road was read into the record. The public hearing was closed.

After additional discussion, a motion was made by Felicijan to deny the request for a 380-foot variance from the 500-foot setback from a residential boundary for the following reasons: there are no exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district; the immediate practical difficulty causing the need for the request was created by the

applicant; the variance would be detrimental to the surrounding neighborhood, and the variance would materially impair the intent and purpose of the Zoning Ordinance. Upon roll call vote: Felicijan-Yes, Bunch-Yes, Linenger-Yes, Schimmel-No, Seyburn-No, Bright-No, Rhodus-No. Motion failed 3-4.

A motion was made Bright, seconded by Seyburn, to grant variances from two special land use provisions for a commercial kennel: a) a 380-foot variance from the 500-foot setback from a residential district boundary; and b) a variance from the enclosure requirements for outside exercise areas for the following reasons: there are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include they are the only dog kennel in the area, the existing building design, the limited size of the kennel operation, and the retention of existing mature vegetation; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to provide service to dog owners; 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 surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning Ordinance. The following conditions will apply 1) the number of animals be limited to not more than 45 (30 daycare dogs and 15 for overnight boarding); 2) the outdoor exercise area not be expanded beyond its current dimensions, and no cages/runs be established in this area; 3) kennel staff be present any time animals are located within the outdoor exercise area; and 4) should there be noise complaints that cannot be resolved by operational changes to the business, a six-foot solid screen fence or wall must be installed around the outdoor exercise area. In addition, the application and related materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated into the record of this hearing and the findings of the Board, and that action of the Board shall be final and effective immediately. A motion was made by Felicijan to amend condition 4) to require installation of the fence prior to operating overnight boarding received no support. Upon roll call vote: Felicijan-No, Bunch-No, Linenger-No, Schimmel-Yes, Seyburn-Yes, Bright-Yes, Rhodus-Yes. Motion passed 4-3.

ZBA #11-07, 1901 Romence Road Parkway: Staff summarized the request for a 10-foot variance to erect two, 14 square-foot directional signs identifying the Stryker Corporation near the west building entrance of 1901 Romence Road Parkway. Steve Vandersloot of Sign Art was present on behalf of the applicants. Mr. Vandersloot stated Stryker was occupying the northwest quadrant of the office building at 1901 Romence Road Parkway and intended the proposed signs to help create a sense of arrival. The signs were not intended to be readable from Romence Road Parkway and would use soft lighting similar to the Trade Center signs. Felicijan inquired if the applicant was requesting one or two directional signs. Mr. Vandersloot stated Stryker was occupying the northwest quadrant of the building and only needed one Stryker sign, however, there was a good possibility they might be occupying the southwest quadrant as well at which time the applicant was comfortable with returning to the Board to make a similar second request. Seyburn noted the Board could save time and trouble if they approved a variance for two directional signs – not necessarily two ‘Stryker’ signs - as the applicant is under no obligation to erect the second sign. Felicijan stated he had some concerns about possibly creating a precedent for larger directional signs. Mr. Vandersloot stated Stryker had previously received a variance for directional signs at their Sprinkle Road campus.

A 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 Felicijan, seconded by Seyburn, to grant a 10-foot variance to erect two 14 square-foot directional signs near the west building entrance of 1901 Romence Road Parkway 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 size of the subject property, the location of the existing site improvements and location/orientation of the proposed signs, the Board previously approved a variance for Stryker’s directional signs at the Sprinkle Road campus, the signs will not be visible to adjacent property or the surrounding neighborhood, and will not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and related materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated into the record of this

hearing and the findings of the Board, and that action of the Board shall be final and effective immediately. Upon roll call vote: Seyburn-Yes, Rhodus-Yes, Schimmel-Yes, Felicijan-Yes, Linnenger-No, Bunch-Yes, Bright-Yes, the motion carried 6-1.

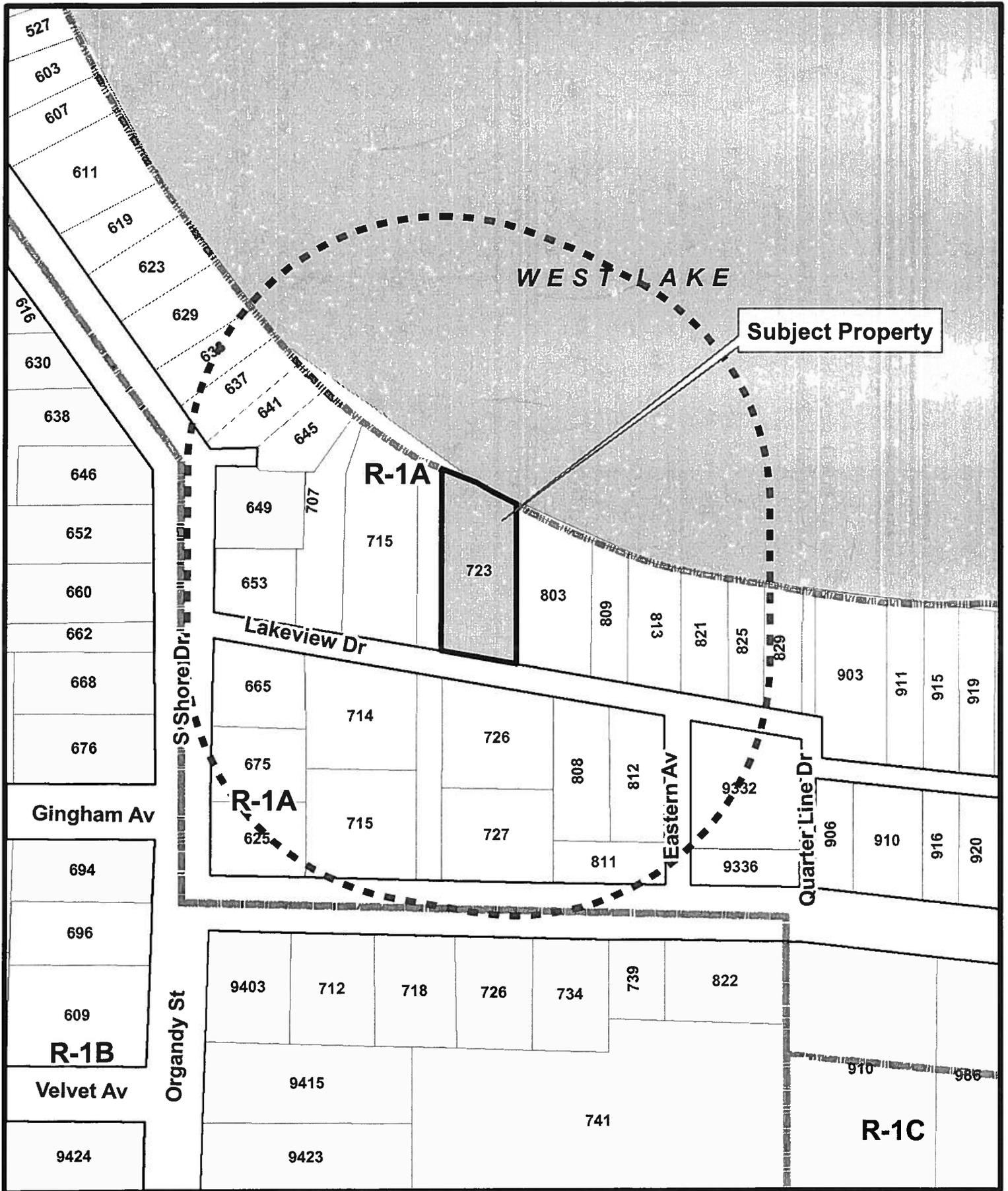
Election of officers: A nomination was made by Felicijan, seconded by Schimmel for Linnenger to serve as Chair. A nomination was made by Bright, seconded by Rhodus for Seyburn to serve as Vice Chair. A nomination was made by Felicijan, seconded by Seyburn, for Schimmel to serve as Secretary. The nominations were closed. Upon voice vote, all nominations were approved 7-0.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:17 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



-  Zoning Boundary
-  300' Notification Boundary
-  Subject Property

ZBA #11-08
723 Lakeview Drive



1 inch = 150 feet

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 10/10/2011
 Name of Applicant WILLIAM G. KOZAK [Signature]
Print Signature
 Applicant's Address 1290 HILIZAYLN - PORTAGE Phone No. 264-383-0882
 Name of Property Owner (if different from Applicant) ALEXANDER HANCHAR
 Address 723 LAKEVIEW DRIVE Phone No. 269-323-9618
 Address of the Property that is the subject of this Application:

Street Address 723 LAKEVIEW DRIVE
 For Platted Property: Lot 899 of BURR'S WEST LAKE RESORT 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: AGENT (DESIGNER/
CONTRACTOR) FOR OWNER

Application Fee 135⁰⁰ (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 42 Section 350 Paragraph A
 Regarding: Use _____ Area _____ Yards _____
 Setbacks Parking _____ Other _____

Reason for Request (Also complete page 2 of application): SEE ATTACHED

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>11-1000008</u>	Filing Date: <u>10/10/11</u>	Tentative Hearing Date: <u>11/14/11</u>
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.)

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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.)

NO CHANGE IN USE

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

SEE ATTACHED

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

SEE ATTACHED


Signature of Applicant

10/10/11
Date

Zoning Variance Request

Alexander and Linda Hanchar
723 Lakeview Drive
Portage, MI

The home site for this zoning variance request is Lots #8 and #9 of Burr's West Lake Resort. This lot has a 10' Private Walk between the platted lots and the lake itself. This is an unusual easement that exist only for only a very few homes on West Lake. This Private Walk is not public land.

Virtually all of the lots on West Lake have a 40' building setback to the lake. The effect of this Private Walk is to require a 50' setback from the lake instead of the 40' setback enjoyed by the homes that do have this Private Walk.

The existing home at 723 Lakeview (Lots #8 and #9) was built about 60 years ago and is nonconforming to the present zoning requirements – see Existing Photographs. Additionally nearly all of the homes with the 10" Private Walk are not conforming to the 40' plus the 10' building setback. It is the wishes of the owners (Alex and Linda Hanchar) to demolish the existing home and construct a new home on the site where the Hanchars have lived for decades. The Hanchars have considered the remodeling option but have chosen not to pursue this because of the existing setbacks, the quality of the construction based on today's standards and the prohibitive total cost. Even if a remodeling project was undertaken, the outcome would be a home noncompliant with current zoning setback. Remodeling does not appear to be the best option.

The existing home now has a setback of 4' to the east side yard line and about 21' setback to the north lake line (including the 10' Private Walk - see attached Existing Site Plan – Exhibit A. The new site plan for a new home to be constructed proposes an east side yard setback of 10' and a north setback from house to lake line of 40' (including the Private Walk) – see Proposed Site Plan – Exhibit B and Existing vs. Proposed Setback Chart – Exhibit C. For most lots on West Lake this Proposed Site Plan would not require a Zoning Variance. All nonconforming setbacks have been increased to meet the current requirements for most. Requiring the Hanchars to build another 10' further back would place them far behind their neighbors -see Existing Plat Home Location Plan – Exhibit D- and most other homes currently on West Lake.

We respectfully request that the Zoning Variance be approved for the Proposed Site Plan.

Submitted By,



William G. Kozar
Kozar Construction, Inc.
Designer and Contractor

October 10, 2011

JOB NO. 110430

ALEXANDER HANCHAR

723 LAKEVIEW DRIVE
PORTAGE, MI 49002

BOUNDARY/TOPOGRAPHICAL
SURVEY



WIGHTMAN & ASSOCIATES, INC.

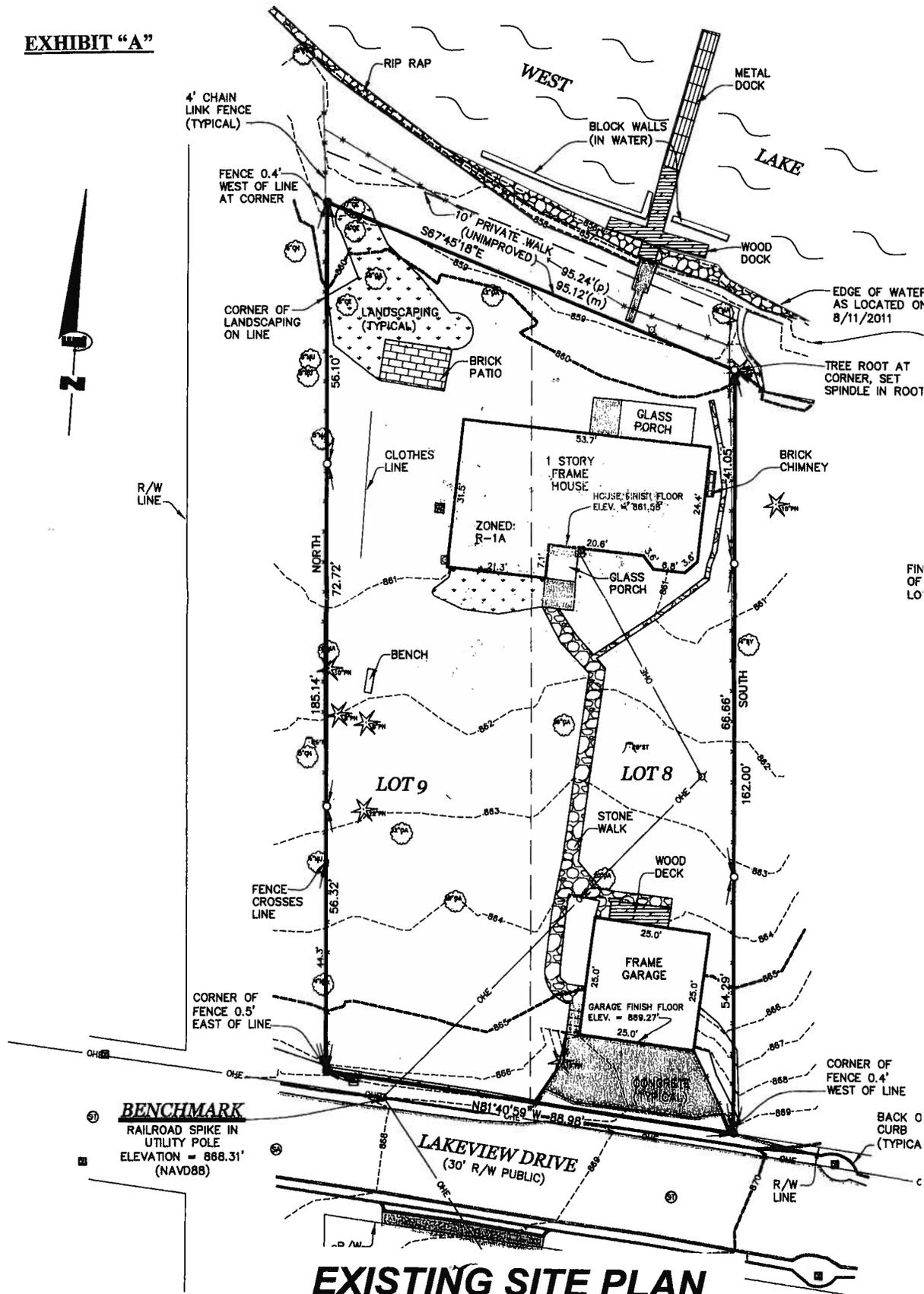
ENGINEERING ♦ SURVEYING ♦ ARCHITECTURE

2303 PIPESTONE ROAD
PHONE: (269) 927-0100

BENTON HARBOR, MI 49022
FAX: (269) 927-1300

WWW.WIGHTMAN-ASSOC.COM

EXHIBIT "A"

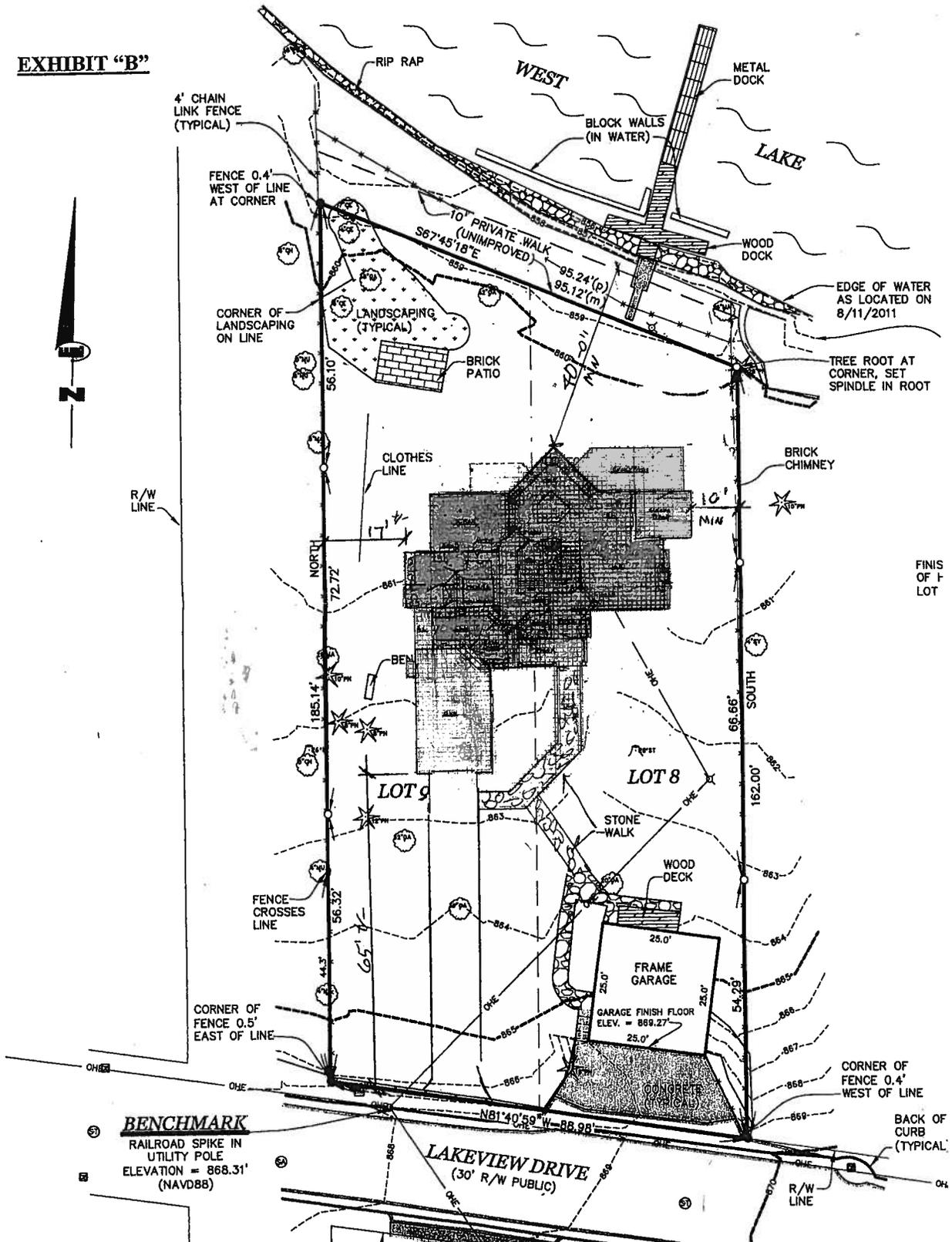


EXISTING SITE PLAN

SCALE 1" = 20'-0"

Prepared By:
KC Kozar Construction
 1290 Holiday Lane - Portage, MI
 Ph 383-0882

EXHIBIT "B"



BENCHMARK
 RAILROAD SPIKE IN
 UTILITY POLE
 ELEVATION = 868.31'
 (NAVD88)

PROPOSED SITE PLAN

SCALE 1" = 20'-0"

ZONING VARIANCE APPLICATION
CITY OF PORTAGE

EXHIBIT "C"

ALEX AND LINDA HANCHAR
723 LAKEVIEW DRIVE
PORTAGE, MICHIGAN

EXISTING VS. PROPOSED SETBACK COMPARISON

	<u>EXISTING SETBACKS</u>	<u>PROPOSED SETBACKS</u>
NORTH **	21'	40'
EAST	4'	10'
WEST	26'	17'
SOUTH	109'	65'

**** INCLUDES 10' PRIVATE WALK**

	<u>EXISTING</u>	<u>PROPOSED</u>
HOUSE WIDTH	58'	61'



Subject Property

Lakeview Dr

S Shore Dr

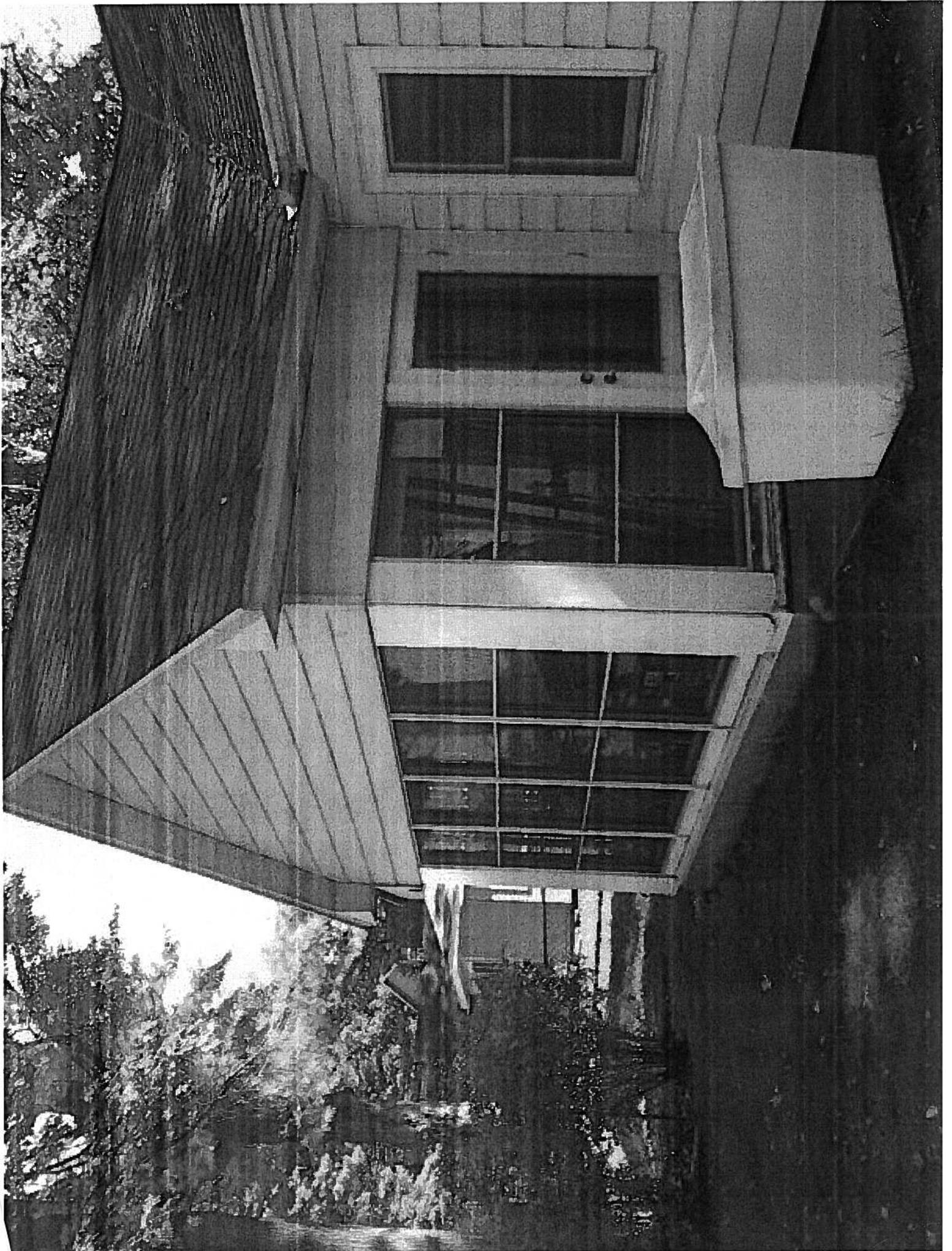
Eastern Av

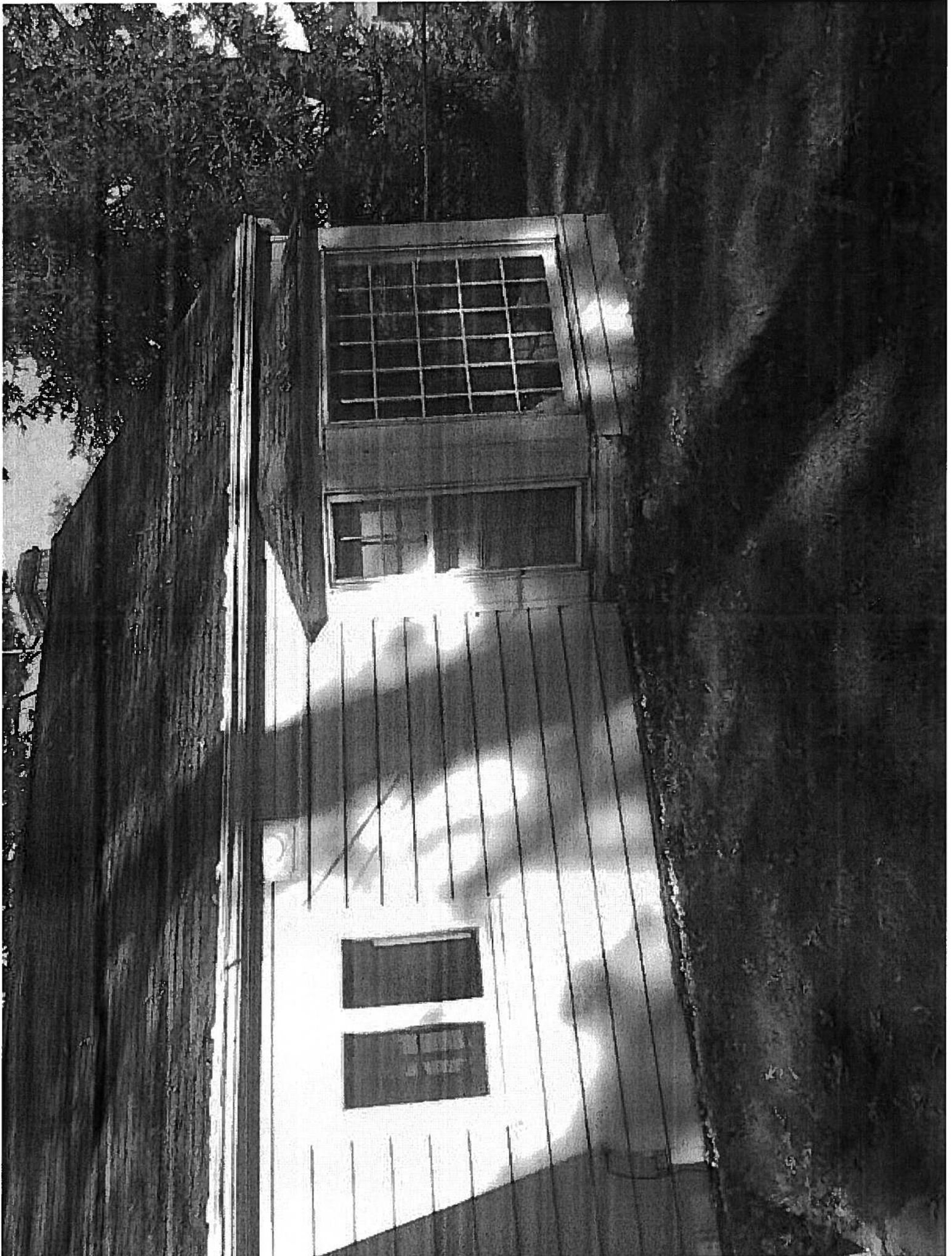
WEST LAKE

**Aerial Photo
723 Lakeview Drive**



1 inch = 76 feet





TO: Zoning Board of Appeals **DATE:** November 4, 2011
FROM: Vicki Georgeau, ^{VG} Director of Community Development
SUBJECT: ZBA #11-08; Kozar Construction, on behalf of Alexander Hanchar, 723 Lakeview Drive; R-1A, One Family Residential
CODE SECTION: 42-350(A) Schedule of Regulations; p. CD42:84
APPEAL: Requesting a 12-foot variance from the 40-foot minimum rear (north) yard setback, to construct a new 3,472 square-foot two-story dwelling.

STAFF RECOMMENDATION:

The applicant requests the above variances per the enclosed application, letter of explanation and attachments. The 0.35 acre lakefront property is zoned R-1A, One-Family Residential and is improved with a nonconforming 1,653 square-foot dwelling constructed in 1930 and a nonconforming 567 square-foot detached garage. The dwelling is nonconforming because it is four feet from the (east) side property line, and 11 feet from the (north) rear property line. The garage is nonconforming as it does not meet the required (south) front and (east) side setbacks.

The applicant has determined renovation of the existing dwelling is not practical and proposes to construct a two-story 3,472 square-foot dwelling located 28 feet from the (north) rear lot line where a 40-foot setback is required. In the case of lakefront properties in Portage, the lot boundaries in most plats extend to the shoreline or water's edge, and the area between the legal lake level and the actual rear lot line has been referred to as a riparian area. However, the plat of Burr's West Lake Resort is unusual since it has a dedicated 10-foot wide private walk between the rear property line and water's edge. The City Attorney has advised under these circumstances that the platted rear lot line serves as the point from which the rear setback is determined. A variance is therefore requested.

There are unique circumstances that apply to the property that do not generally apply to other lakefront properties. The dedicated 10-foot wide private walk is not typical of lakefront plats, and the variance would not be necessary if the setback were measured from the legal lake level. The applicant indicates constructing a dwelling in a conforming location would place it behind other homes along this portion of West Lake and none of the six other lakefront lots in Burr's West Lake Resort appear to meet the minimum rear setback as determined from the north lot line/plat boundary. While conforming alternatives are available, the applicant's proposal is consistent with the character of the surrounding area, and represents a reduction in the overall degree of nonconformity. In particular, the rear setback is proposed to be increased from 11 feet to 28 feet, and the east side setback will be increased from four feet to 10 feet. In addition, the variance would not adversely impact neighboring properties, and is not inconsistent with the intent and purpose of the Zoning Ordinance. For the reasons noted above, approval of the variance is recommended.

PRACTICAL DIFFICULTY:

Existence of private walk along shoreline; reduction in degree of nonconformity. 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:

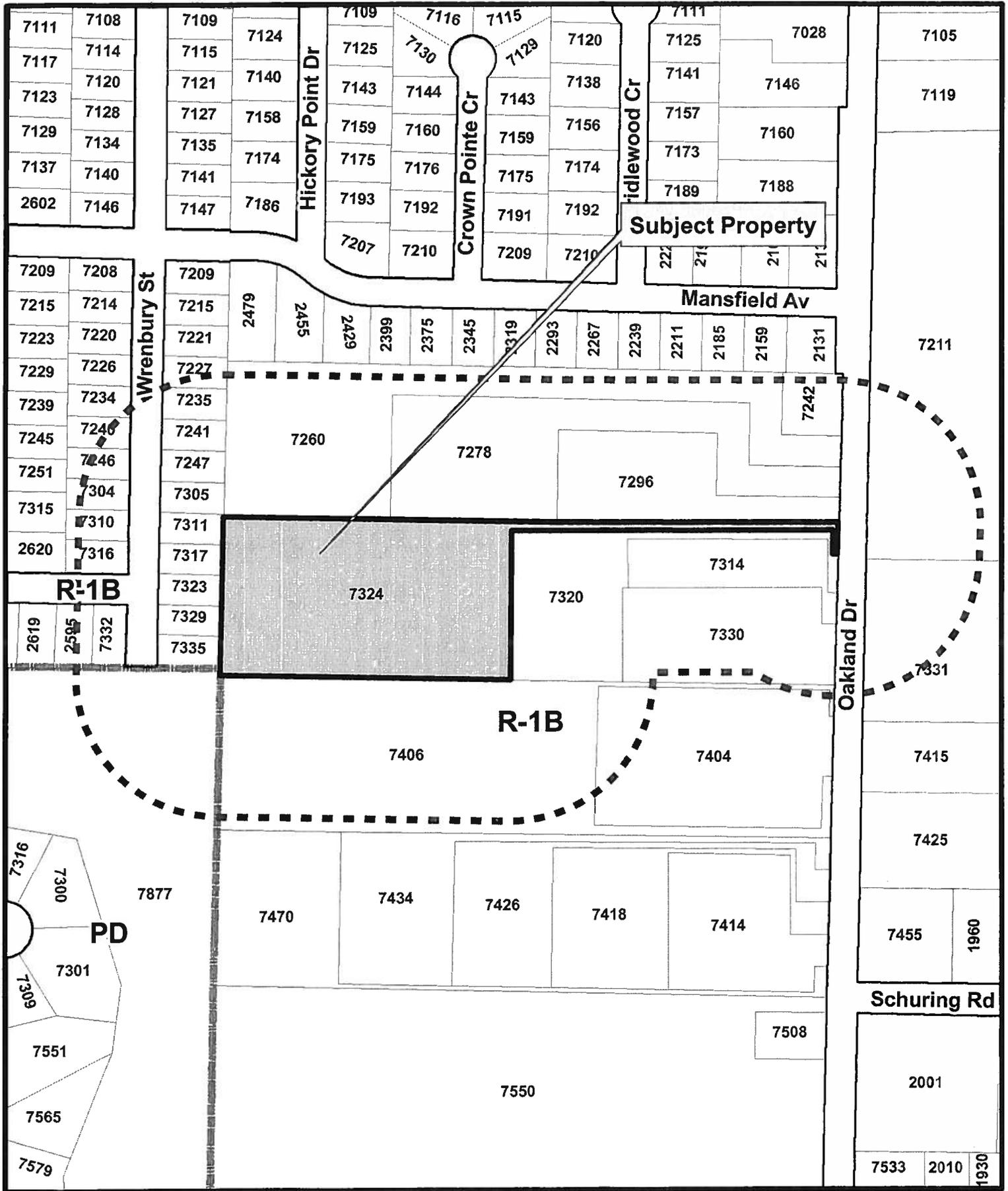
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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

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

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



-  Zoning Boundary
-  300' Notification Boundary
-  Subject Property

ZBA #11-09

7324 Oakland Drive



1 inch = 267 feet

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

RECEIVED

OCT 14 2011

COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 10/13/2011
Name of Applicant GLAS ASSOCIATES Print [Signature] Signature
Applicant's Address 6339 STADIUM Phone No. 353-7737
Name of Property Owner (if different from Applicant) MR. & MRS. CHEN
Address _____ Phone No. _____

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

Street Address 7324 OAKLAND DR.
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: BUILDER

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 42-121 Paragraph _____
Regarding: Use _____ Area _____ Yards _____
Setbacks _____ Parking _____ Other Building Height

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>11-09</u>	Filing Date: <u>10/19/11</u>	Tentative Hearing Date: <u>11/14/11</u>
Previous Application Filed Regarding This Property:		

Zoning Board of Appeals Application
Page 2

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 ABOUT FIVE ACRES, NOT A TYPICAL LOT SIZE WITHIN THE CITY & THEREFORE FEEL THE HEIGHT ORDINANCE IS OUT OF BALANCE WITH THE SIZE OF THE LOT

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

THIS IS A RELATIVELY LARGE PIECE OF PROPERTY IN COMPARISON TO NEIGHBORING PROPERTIES

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

THE VARIANCE WOULD ALLOW SECURE, INDOOR STORAGE FOR PARKING THEIR BOAT

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 VARIANCE REQUESTED IS THE MINIMUM FOR THE OVERHEAD DOOR 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.)

WE PROPOSE A SETBACK OF 30' TO ALLOW FOR A EVERGREEN SCREEN; USING A SLIDING SCALE THE BUILDING WE'RE PROPOSING IS LESS INVASIVE W/ 30' SETBACK THAN 5' SETBACK BUILDING TO CODE

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 PROPERTY WILL BE OCCUPIED BY A SINGLE FAMILY & USED ONLY FOR THEIR PURPOSES

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.)

NO

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

THE INTENT OF THE CODE IS BASED ON (FOR A TYPICAL PLATTED LOT); THE PROPERTY & SURROUNDING PROPERTIES ARE LARGER ALLOWING FOR MORE SCREENING & SIGHT LINE BUFFERS & GREATER DISTANCES BETWEEN BUILDINGS & PROPERTIES

[Signature]
Signature of Applicant

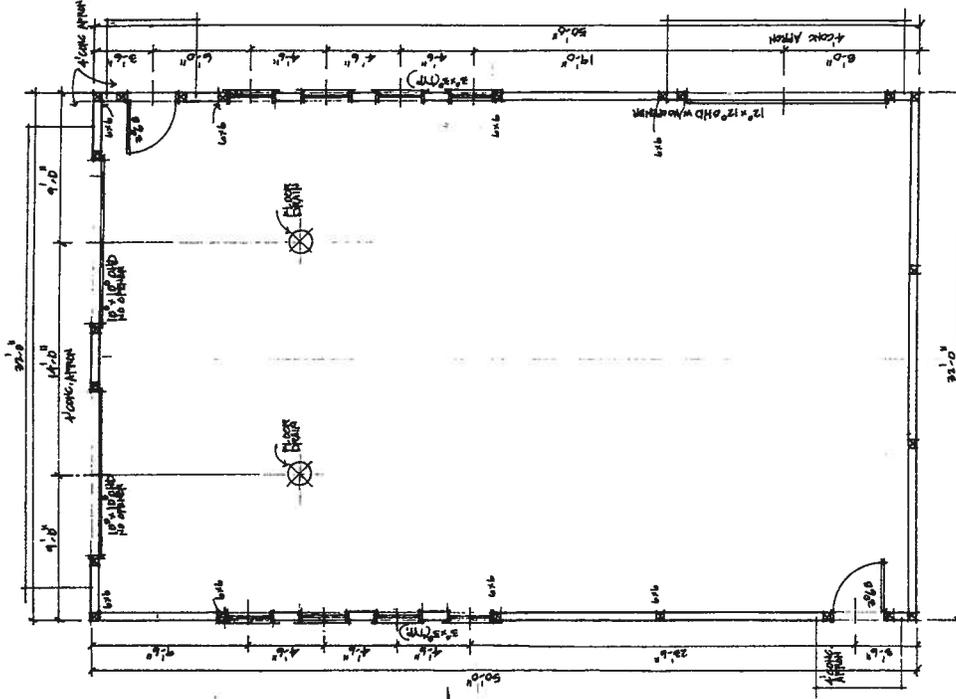
10/13/2011
Date



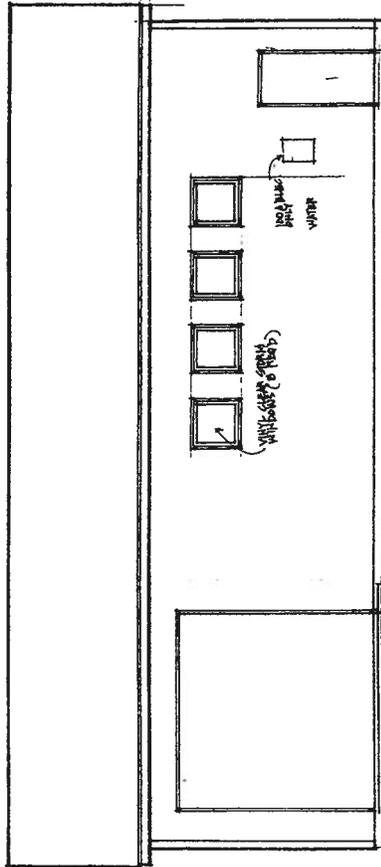
Checklist
7.15.11

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SEP 11 2011
COMMUNITY DEVELOPMENT

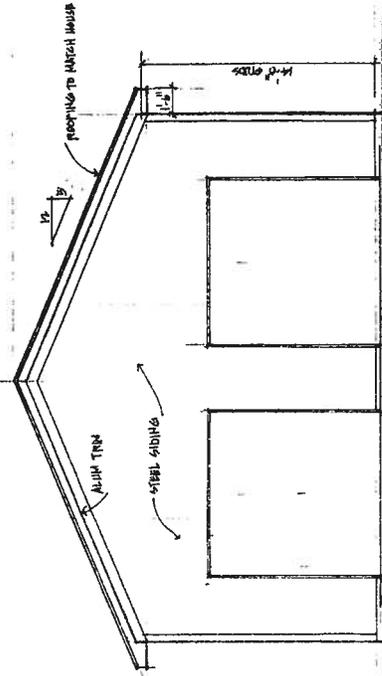
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OCT 11 2011
COMMUNITY DEVELOPMENT



FLOOR PLAN

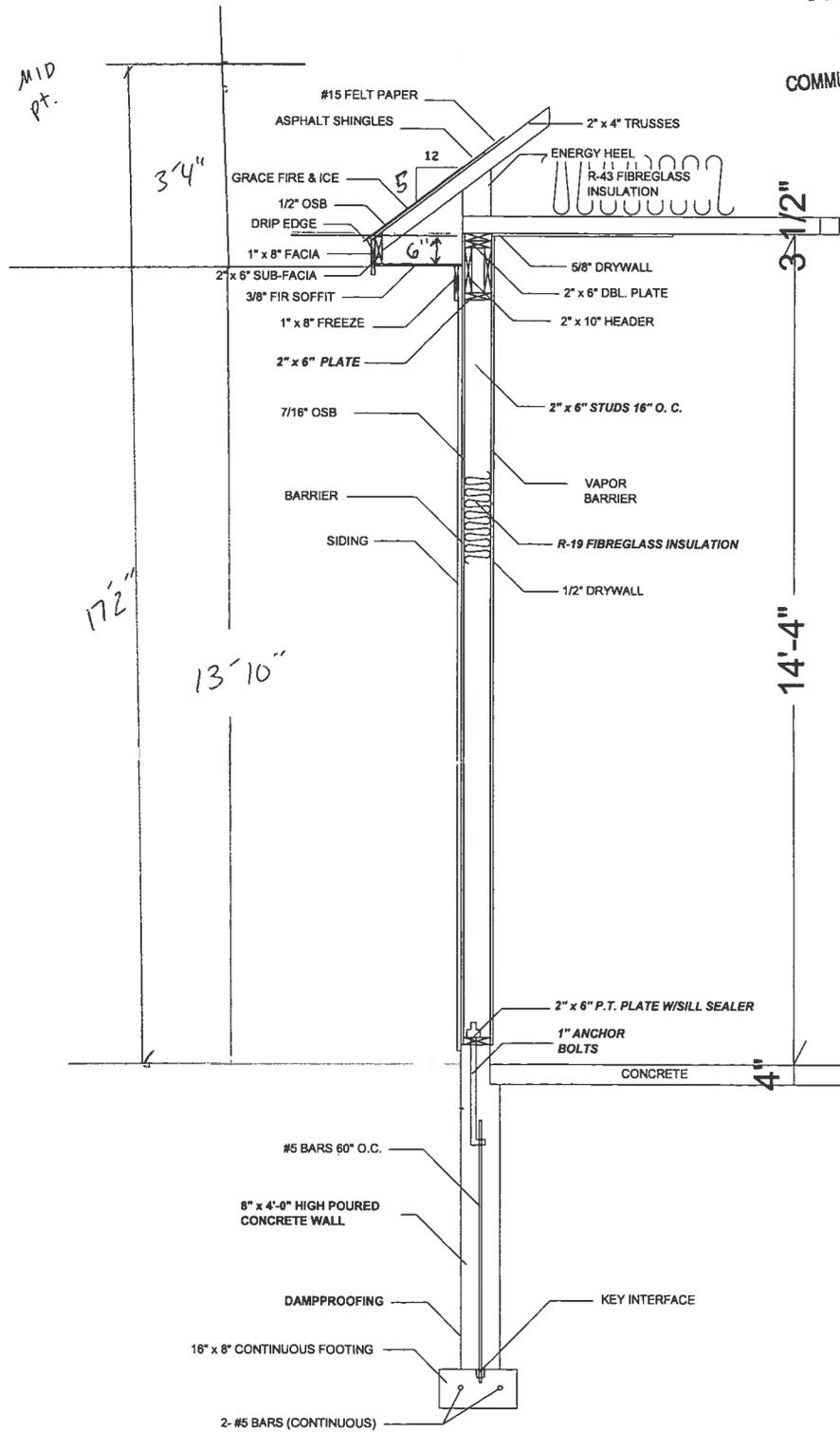


LEFT ELEVATION
RIGHT SIMILAR



FRONT ELEVATION

RECEIVED
 OCT 14 2011
 COMMUNITY DEVELOPMENT



WALL SECTION
 1/2" = 1'-0"

Accessory Building Location (Looking north)



10/24/2011 15:31

Accessory Building Location (Looking west)



10/24/2011 15:31

Accessory Building Location (looking west)



New Home Location (under construction)





Aerial Photo 7324 Oakland Drive



1 inch = 160 feet

TO: Zoning Board of Appeals **DATE:** November 4, 2011
FROM: Vicki Georgeau, ^{MG} Director of Community Development
SUBJECT: ZBA #11-09; Glas Associates, on behalf of Michael and Patricia Chen, 7324 Oakland Drive; R-1B, One Family Residential
CODE SECTION: 42-121 Accessory Buildings and Uses; p. CD42:28
APPEAL: Requesting a 3.5 foot variance from the 14-foot maximum building height requirement to construct a 17.5 foot high detached accessory building

STAFF RECOMMENDATION:

The applicant requests the above variance per the enclosed application, sketches and supporting materials. The 4.69 acre parcel is flag-shaped with 66 feet of frontage on Oakland Drive and a total depth of 1,292-feet. A single-family residence with a ground floor area of 2,664 square feet and an attached garage of 916 square feet is currently under construction along the western portion of the parcel. The applicant is proposing to construct a single-story, 1,600 square foot detached accessory building for storage of a boat and other personal items. The height variance is being requested to accommodate 10-foot tall overhead doors that are necessary for boat storage.

The proposed 17.5 foot high accessory building will be located approximately 30-feet from the north property line, 265-feet from the south property line, 210 feet from the west property line and more than 1,000-feet from the east property lines. The nearest single-family residence is located approximately 170 feet to the north (refer to attached aerial photograph). The applicant is proposing to retain the majority of this natural vegetation and install eight Norway Spruce trees 16-20 feet tall along the north side of the proposed accessory building. Retention of the existing natural vegetation in conjunction with the supplemental evergreen trees and setback distance will create an effective screen between the proposed accessory building and single-family residence to the north.

The intent of limiting accessory building height is to maintain the single-family residential character of Portage neighborhoods. Excessive accessory building heights can negatively impact the appearance of residential neighborhoods, especially when the lot sizes are small and dwellings are located in close proximity to one another, such as in a R-1A zoning district. However, and in this situation, the property is large (4.69 acres), heavily wooded and the nearest residential dwelling is located approximately 170 feet to the north. Consequently, approval of the variance will not be detrimental to adjacent property and the surrounding neighborhood. The requested variance is also the minimum necessary to meet the storage needs of the applicant. For the reasons noted above, staff recommends approval of the variance.

PRACTICAL DIFFICULTY:

Unique site characteristics including the size of parcel; presence of mature trees; location of the proposed building; setback distances from property lines and adjacent residences; and supplemental evergreen tree plantings. 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:

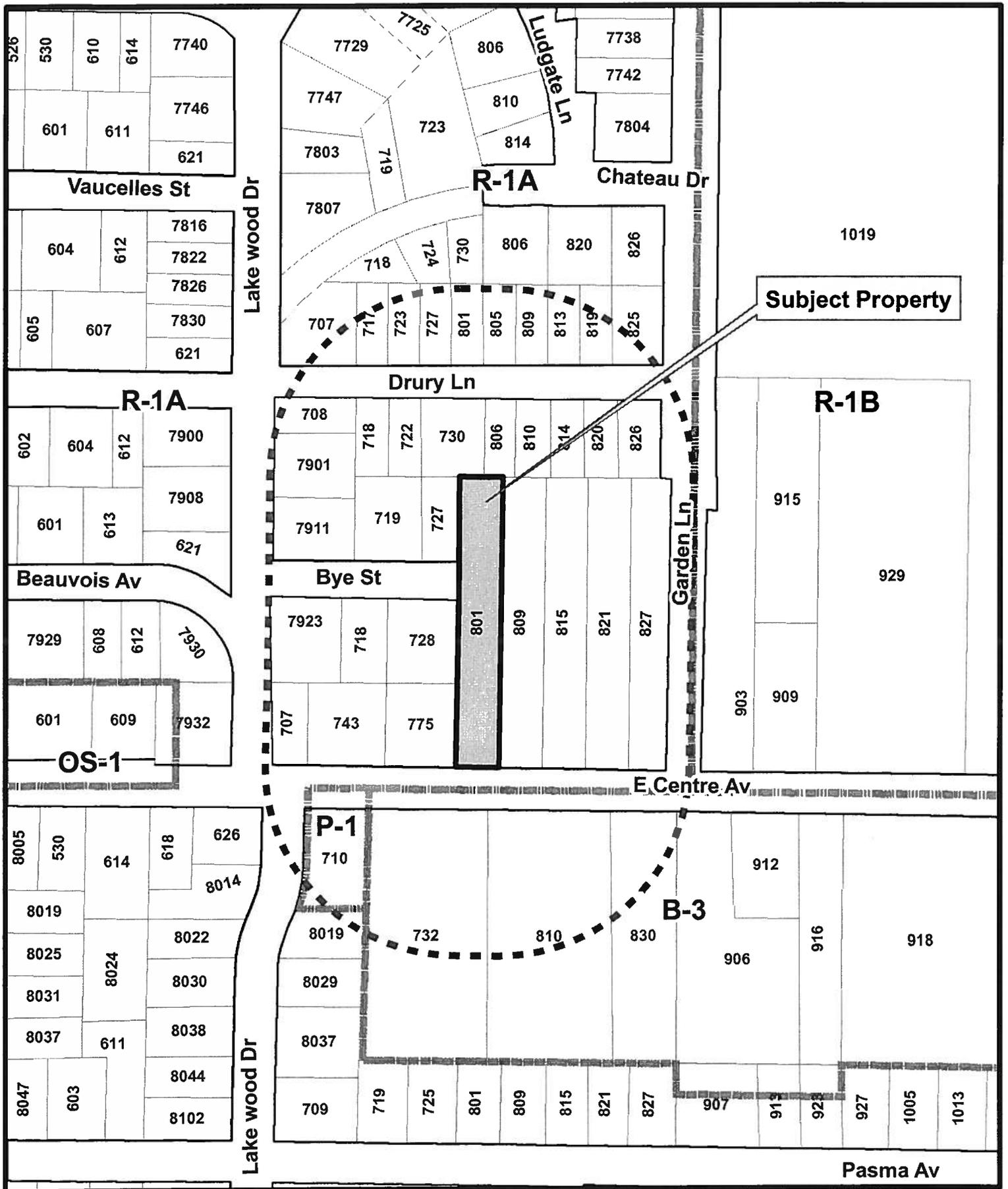
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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



ZBA #11-10

801 East Centre Avenue

 Zoning Boundary
 300' Notification Boundary



1 inch = 200 feet

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OCT 14 2011



Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 10-14-2011

Name of Applicant THOMAS C. ROGERS

Signature Thomas C Rogers

Applicant's Address 895 TREASURE ISLAND DR.

Phone No. (269) 760-6448

Name of Property Owner (if different from Applicant) MATTAWAN, MICH 49071

Address Phone No.

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

Street Address 801 EAST CENTRE AVE, PORTAGE, MICH. 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: I OWN THIS PROPERTY IN MY IRA HELD FOR MY BENEFIT AT MICHIGAN COMMERCE BANK

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 42350 Section Paragraph

Regarding: Use Area Yards

Setbacks [X] Parking Other

Reason for Request (Also complete page 2 of application): CONSTRUCTION OF HANDICAP WHEELCHAIR RAMP

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 (1150), Filing Date (10/14/11), Tentative Hearing Date (11/14/11). Row 2: Previous Application Filed Regarding This Property:

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OCT 14 2011

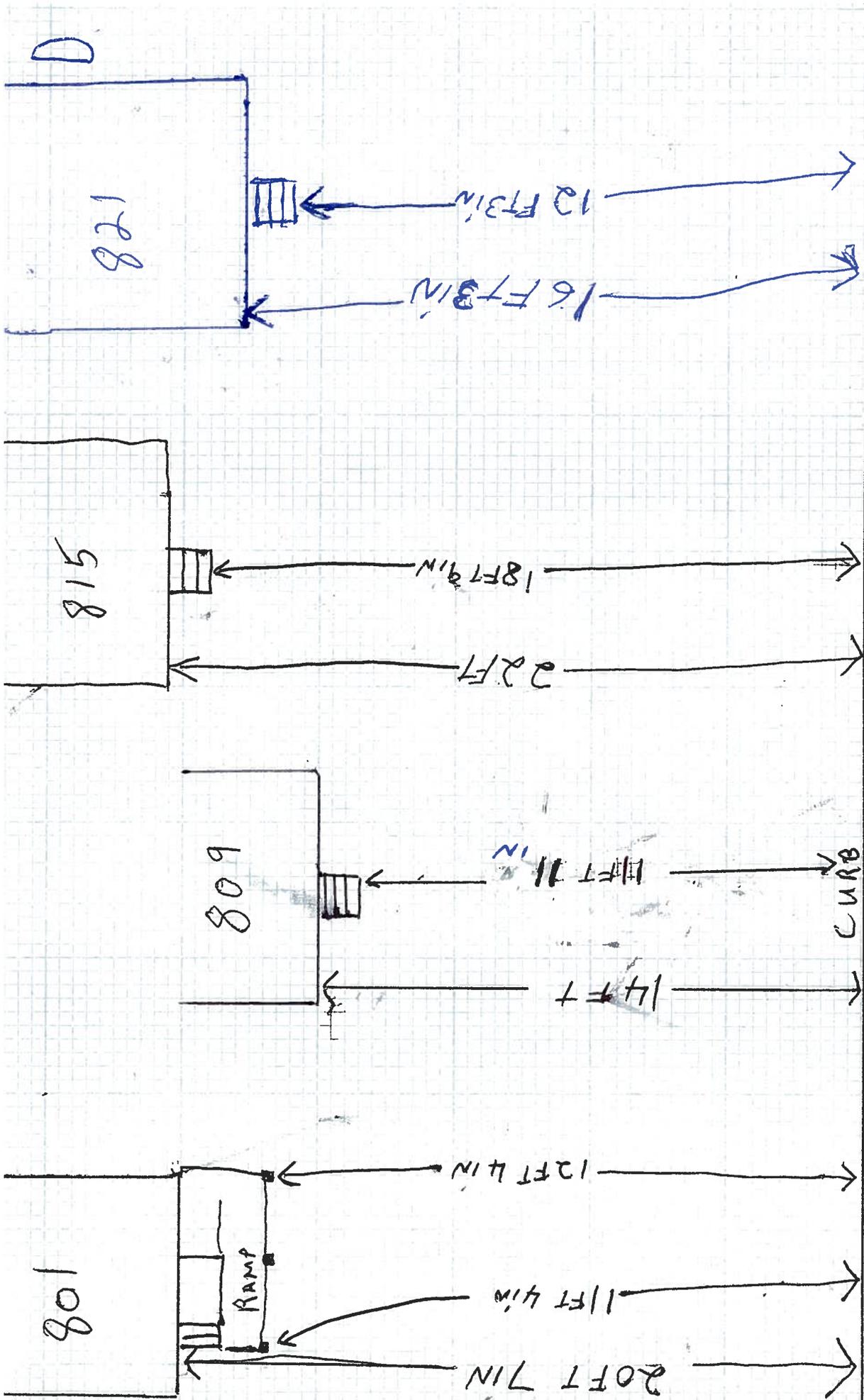
COMMUNITY DEVELOPMENT

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.)
HOME WAS BUILT IN 1917 WHEN CENTRE AVE. WAS A TRACK ROAD. DUE TO ROADWAY EXPANSION I CANNOT COMPLY WITH MINIMUM SET BACK FROM FRONT OF MY HOUSE OR WHEELCHAIR RAMP I WISH TO ADD ON TO THE ROAD RIGHTWAY.
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)
MY NEIGHBORS DO SHARE THE SAME PROBLEMS AND AS MY DRAWINGS SHOW 809 + 821 EAST CENTRE ENTRY STAIRS ARE WITHIN 12 FT OF THE CURB/SIDEWALK APPROXIMATELY THE SAME DISTANCE AS MY RAMP WOULD BE. (SEE PAGE "D" ATTACHED)
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, NOT BY A HANDICAP INDIVIDUAL. WITHOUT THIS RAMP BE PLACED NEAR FRONT ENTRYWAY THERE IS NO COST EFFECTIVE WAY TO GAIN ENTRY.
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, MY DRAWING MEASUREMENTS ARE THE MINIMUM DEMANDS PER REQUIREMENTS OUTLINED BY MICHAEL YOUR BUILDING INSPECTOR. WE FEEL THAT REPAIRS ALREADY MADE AND THE RAMP WILL PLEASE OUR NEIGHBORS.
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.)
IF YOU LOOK TO THE EAST ON A LINE OF SIGHT AT THE POINT CLOSEST TO THE CURB YOU WILL SEE THAT IT APPEARS TO BE PERFECTLY IN LINE WITH THE FRONT STEPS OF 2 OF MY 3 CLOSEST NEIGHBORS AND IT WILL LOOK GOOD.
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.)
FIRST AND FOREMOST IT WILL COMPLY WITH MODERN BUILDING CODES TO ALLOW HANDICAP INDIVIDUALS TO SAFELY ENTER AND EXIT THIS PROPERTY. IT WILL NOT AFFECT SIDEWALK PEDESTRIAN TRAFFIC NOR TRAFFIC ON CENTRE.
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 OF COURSE DEPENDS IF ONE HAS CERTAIN HANDICAPS, BUT IT IS A PRACTICAL DIFFICULTY CREATED BY THE EXPANSION OF THE STREET AND SIDEWALKS WHICH COULD NOT BE ANTICIPATED IN 1917.
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
I BELIEVE THAT THE ZONING BOARD OF APPEALS WILL FIND THAT OUR INTENT IS IN SURE SAFE PASSAGE TO ALL RESIDENCE WITH MINIMAL OBSTRUCT TO OTHER CITIZENS AND AS LONG AS ALL BUILDING CODES ARE FOLLOWED, WILL MEET THE SPIRIT OF THIS ZONING ORDINANCE.

Thomas C. Royer
Signature of Applicant

10-14-2011
Date



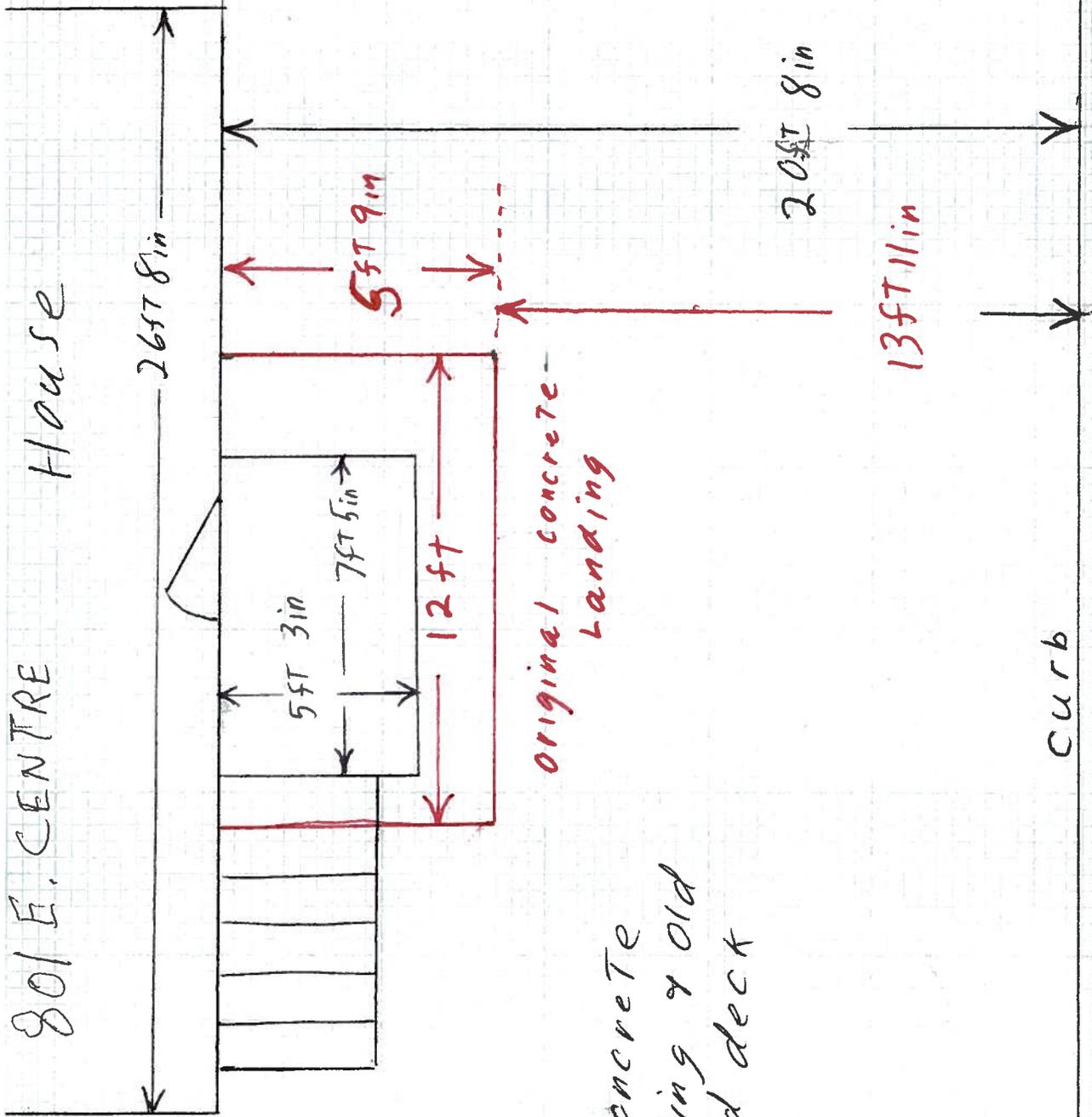
RECEIVED
 OCT 14 2011
 COMMUNITY DEVELOPMENT

PICTURED ARE MY HOME AND 3 ADJASENT HOMES WITH SIMILAR DISTANCE OF THEIR STEPS AND MY PROPOSED RAMP FROM CURB. 809 + 821 AND 801 ARE ALL APROXIMATELY 12 FT FROM CURB.

801 E. CENTRE

House

A



Old concrete
 Landing & old
 wood deck

RECEIVED

OCT 14 2011

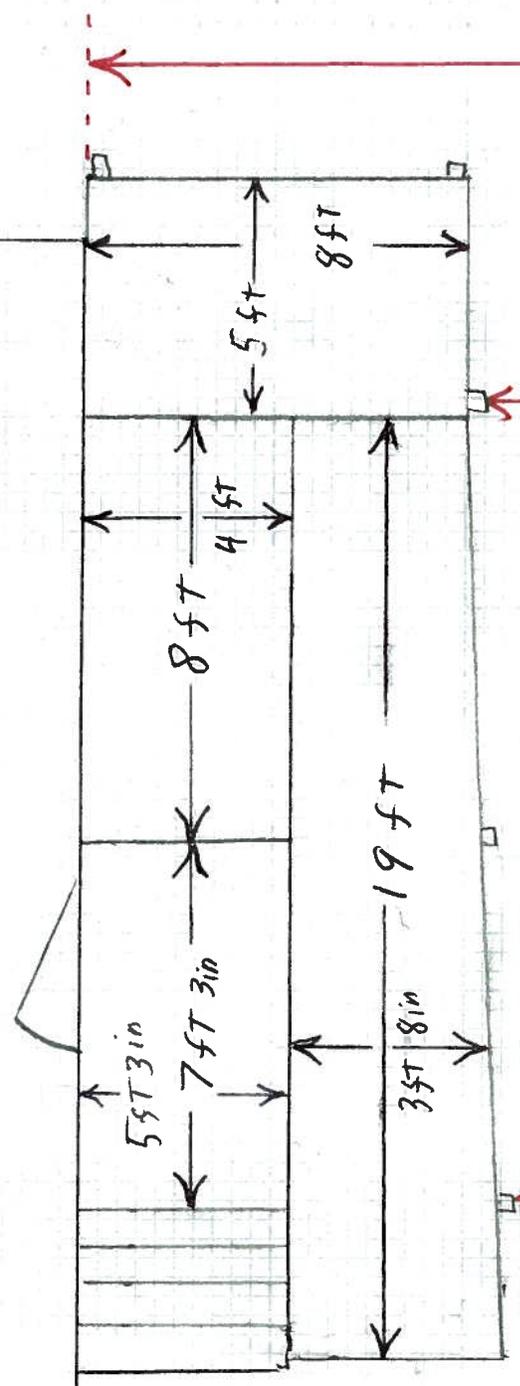
COMMUNITY DEVELOPMENT

CENTRE AVE.

* PICTURED IN RED IS OLD CONCRETE STEPS,
 5FT 9IN X 12FT CONCRETE AREA STILL IN PLACE.
 ** PICTURED IN BLACK WAS EXISTING STAIRS &
 DECK BUILT OVER ABOVE CONCRETE ENTRY.

801 E. CENTRE HOUSE

C



20ft 7 in

11ft 4 in

12ft 4 in

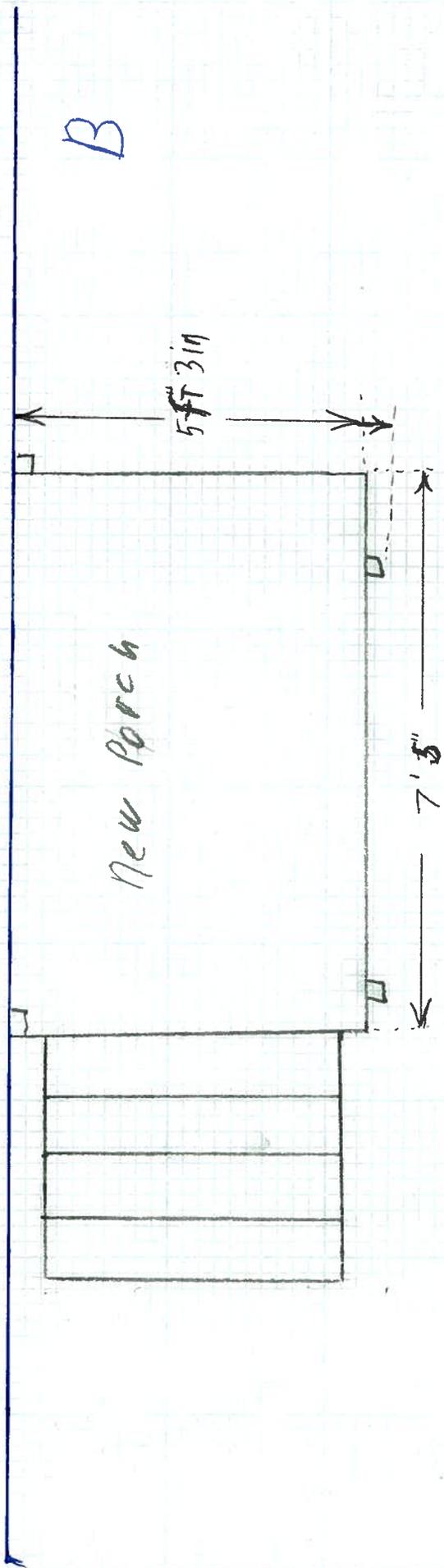
20ft 8 in

RECEIVED

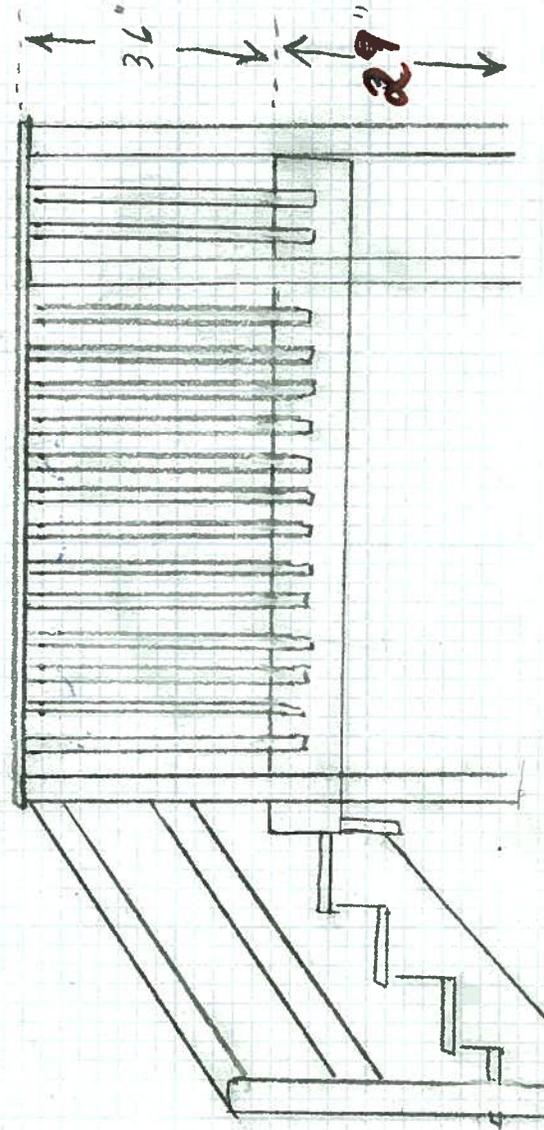
OCT 14 2011

COMMUNITY DEVELOPMENT

PICTURED IS REPAIRED/REPLACED STAIRS + LANDING (5 FT 3 IN X 7 FT 3 IN) AND THE PURPOSED WHEELCHAIR RAMP INCLUDING MINIMUM REQUIRED DIMENSIONS. ALSO PICTURED ARE THE MEASURED SET BACKS FROM CURB/SIDEWALK JOINT.



PICTURE IS NEW PORCH AFTER REPAIRS ON HOUSE
 AT 801 E. CENTRE AVE



7" Rise
 10" Tread

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OCT 14 2011

COMMUNITY DEVELOPMENT



728

775

801

809

815

66' RW

E Centre Av

732

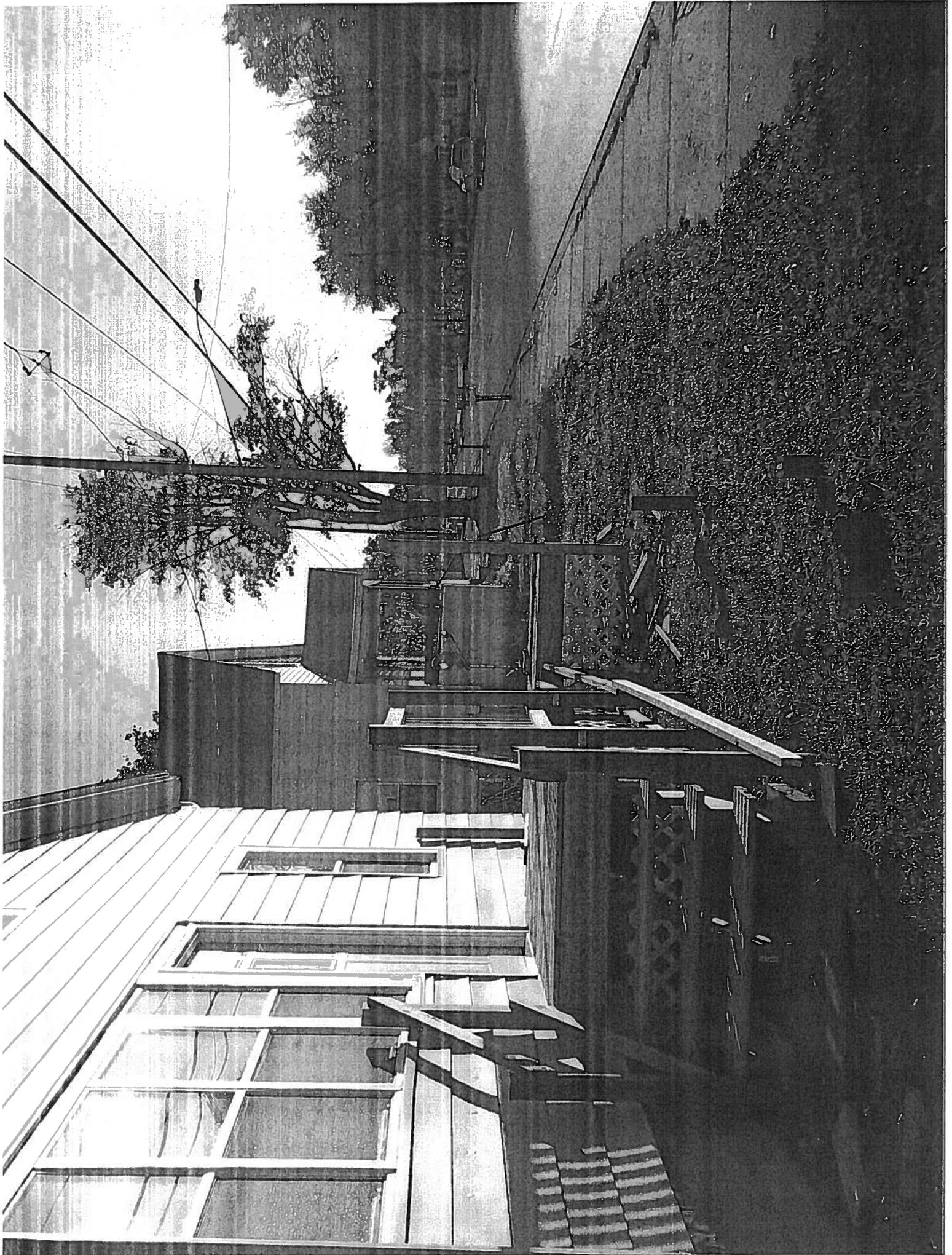
810

Subject Property

ZBA #11-10
801 East Centre Avenue



1 inch = 30 feet



TO: Zoning Board of Appeals **DATE:** October 4, 2011
FROM: Vicki Georgeau, ^{VG} Director of Community Development
SUBJECT: ZBA #11-10; Thomas Rogers, 801 East Centre Avenue; R-1A, One Family Residential
CODE SECTION: 42-133(D) Nonconforming Buildings and Structures; p. CD42:44
42-350(A) Schedule of Regulations; p. CD42:84
APPEAL: Requesting a 10-foot front yard setback variance to construct a wheelchair ramp to within seven feet of the front property line, where a 17-foot front yard setback is required.

**STAFF RECOM-
MENDATION:**

The applicant requests the above variance per the enclosed application and attachments. The 66-foot wide by 462-foot deep parcel is zoned R-1A, One-Family Residential and is adjacent to single-family residences to the north, east, and west, and commercial property across the street to the south. The property is improved with a legal nonconforming 1,252 square-foot one and one half-story dwelling constructed in 1917, and a detached 440 square-foot garage. The dwelling is nonconforming because it has 868 square feet of living area on the ground floor, and is setback 16 feet from the front (south) property line where a 27-foot front setback is required.

The applicant began construction of a wheelchair ramp at the front entrance to the dwelling where open stairs previously existed. The ramp and required landings would extend to within approximately seven feet of the front property line. Due to the interior floor plan, a wheelchair ramp serving the rear entrance in a conforming location would involve significant reconstruction and is not a practical alternative. A 17-foot minimum front setback for an open porch or deck is required, and a variance is therefore requested.

There are exceptional circumstances that apply to the property that do not apply generally to other properties in the same zoning district. Most of the dwellings along this portion of East Centre Avenue are older legal nonconforming homes that do not meet the minimum front setback. As a result, the proposed ramp would not be inconsistent with the character of the immediate neighborhood and would not be detrimental to adjacent property and the surrounding neighborhood. Inasmuch as the dwelling was constructed in its current location nearly 100 years ago, the practical difficulty causing the need for the variance was not created by the applicant. In addition, the variance will not materially impair the intent and purpose of the Zoning Ordinance. For the reasons noted above, approval of the variance is recommended.

**PRACTICAL
DIFFICULTY:**

Nonconforming location and age of dwelling on parcel; interior layout of dwelling. 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:

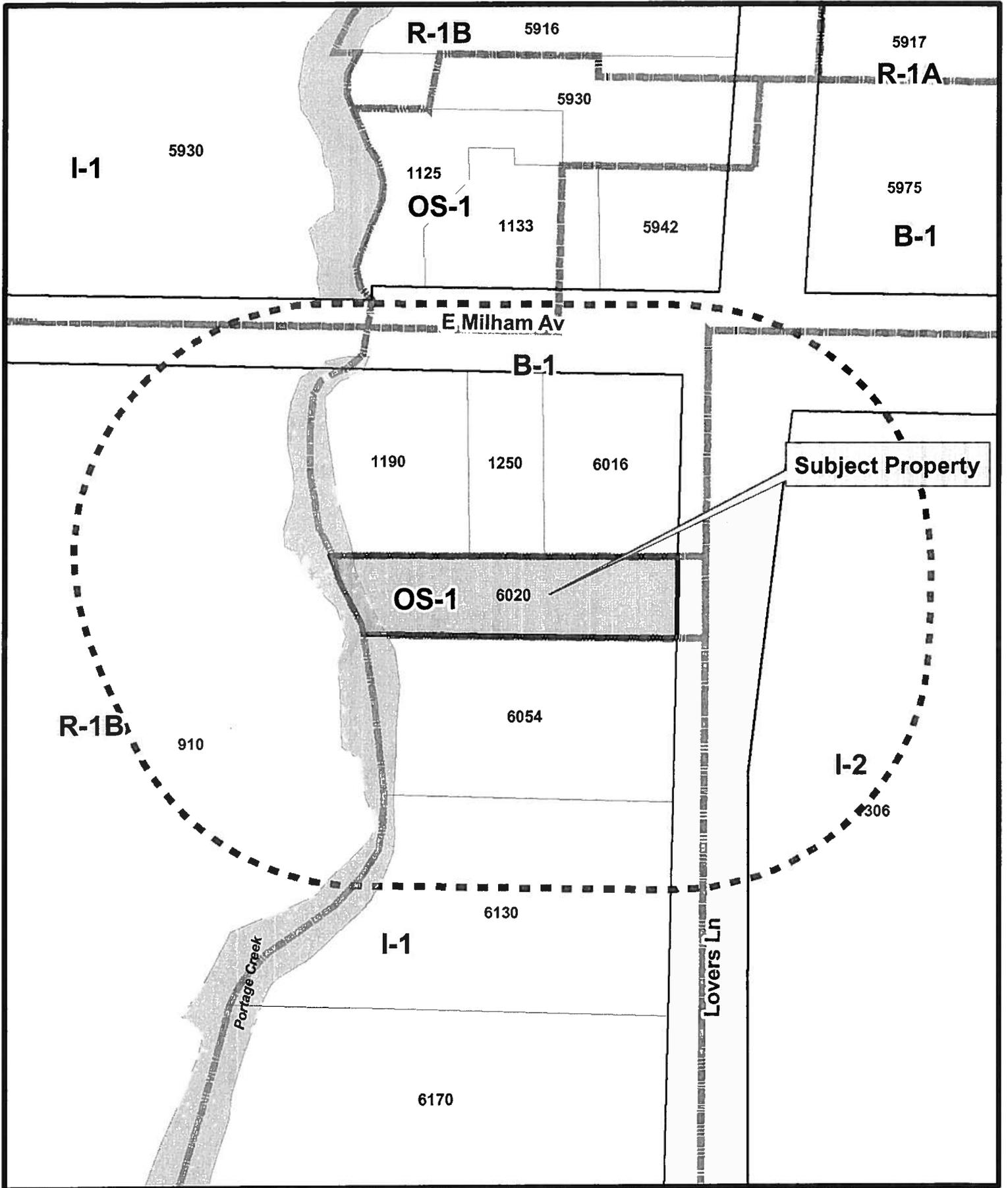
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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



-  Zoning Boundary
-  300' Notification Boundary
-  Subject Property

ZBA #11-11
6020 Lovers Lane



1 inch = 150 feet

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 10/15/11
 Name of Applicant Shannon Glascock Signature Shannon Glascock
 Applicant's Address 831 Maple Meadows Ave. Vicksburg, Miss. Phone No. 269-217-1474
 Name of Property Owner (if different from Applicant) Dianne and Joe Messer
 Address _____ Phone No. _____

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

Street Address 6020 Lovers Lane
 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: Salon Pura Vida rents this property

Application Fee _____ (Residential Uses) 330.00 (All Other Uses)

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

Variance from Zoning Ordinance: Article _____ 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>11-11</u>	Filing Date: <u>10/19/11</u>	Tentative Hearing Date: <u>11/14/11</u>
Previous Application Filed Regarding This Property:		

RECEIVED

OCT 17 2011

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.)

This property has an abnormally wide right of way. Making the setback 27' plus another 10' would mean the sign would not be seen by passing traffic. Also, the row of overgrown bushes to the north of the property prohibit view from the road.

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

The row of bushes on the North side of property are not on our 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.)

Since my building sits closer than neighbors, they do not share the setback problem. Yes, it can be used however is not visible by passing traffic.

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

See attached

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.)

A sign closer to the road in front of our building would not affect either neighbor, it would probably help Dr. Krause so his patients do not continue missing his driveway and being forced to turn around in DPS.

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.)

This variance would prevent traffic congestion. Making the sign and building easier to see will prevent traffic from slowing down to look for us or driving by accidentally.

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.)

NO

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

See attached

Shannon Blascock
Signature of Applicant

10/15/11
Date

RECEIVED

OCT 17 2011

COMMUNITY DEVELOPMENT

10/15/2011

Request for sign variance:

I am requesting a variance of zoning provision requiring that a sign be set back ten feet or more from the property line. I am requesting that the ten foot setback be waived and the right of way be reduced by 5 feet so that the leading edge of the sign be placed 22 feet from the road. A draft of the proposed signage is attached and remains within the square footage requirements set by the board. Due to the unusually wide right of way which extends beyond the curve of Lovers Lane, in order to comply with the zoning provisions, we would have to place our sign so far back away from the road that it would not be visible to southbound traffic.

At the current time, we have an attached sign on the front of the building that is within the restrictions. This sign does not provide adequate visual presence until someone is right in front of the property, introducing the potential for a traffic hazard.

Attached is a copy of the neighboring properties with the right-of-way in yellow, as you can see, our property is closer to Lovers Lane than other properties. The property on the north of our building has signage on the corner so a sign on our property, closer to the road, would not impact vision of his property. The property to the South has a sign that is set back and very tall. Our proposed signage would not impact Allegras' property either.

The overgrowth of vegetation on the North side of the property limits visibility of southbound traffic. I have in the past, requested that Dr. Krause remove the bushes and he has refused. I also contacted the City of Portage and received a reply in June of 2010 in response to my request. Letter attached.

The spirit and intent of the ordinance is to provide identification in a safe, consistent and fair manner. The proposed placement of this sign does not cause a safety concern, but acts as an identifier and gives direction to an area.

The hardship and practical difficulty encountered by this circumstance is that the sign, if it were to be located with its leading edge ten feet back from the property line poses two problems. First, it would be set back too far from the road for passers' to see and second, it would be hidden by a row of overgrown bushes at the adjoining property line.

The property, 6020 Lovers Lane is uniquely and adversely affected by the abnormally wide right of way. At this time, there are no other neighboring properties that are situated this way.

July 1, 2010

RECEIVED

OCT 17 2011

COMMUNITY DEVELOPMENT

Dr. Auville Krause, DDS
6016 Lovers Lane
Portage, Michigan 49002

Dear Dr. Krause:

RE: Non-Required Landscaping between 6016 and 6020 Lovers Lane, Portage, Michigan.

This correspondence is provided at the request of Ms. Shannon Glascock, owner of Salon Puravida, located at 6020 Lovers Lane. According to Ms. Glascock, there are several dying arborvitae trees located along the southeast portion of your property that she would removed to improve the visibility of her salon business. Attached is a copy of the approved site plan for your business which identifies the trees in question (highlighted). As I discussed with Ms. Glascock, these trees were previously existing and not part of any required landscaping. As such, they can be removed and do not need to be replaced, if desired by the property owner.

If you have any questions or would like to discuss this matter further, please contact me in the Department of Community Development at 329-4475.

Sincerely,

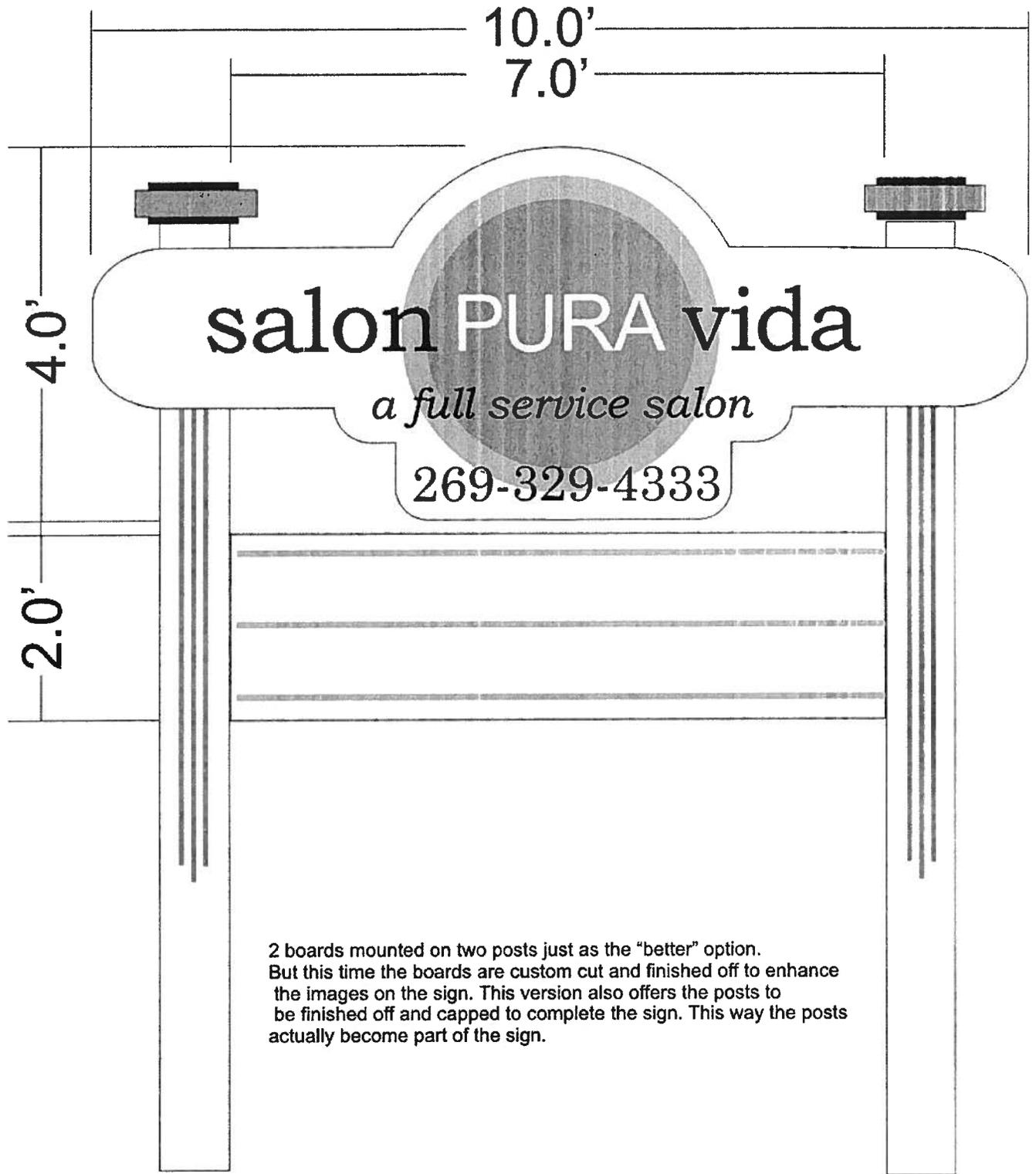


Michael K. West, AICP
Assistant City Planner

Attachments: Approved Site Plan for Dr. Krause, 6016 Lovers Lane dated 10-23-06 (with highlighted area)

cc: Ms. Shannon Glascock (Salon Puravida, 6020 Lovers Lane, Portage, Michigan 49002)
Christopher Forth, Deputy Director of Planning & Development Services

s:\comndev\2009-10 department files\planning files\miscellaneous\2010 07 01 mkw dr. krause, 6016 lovers lane (non-required landscaping).doc





salonPURAvida
a full service salon

View from Milham/Lovers Lane



View of North side of property



October 17, 2011

Attn: City of Portage, Jeff Mais

Subject: 6020 Lovers Lane Sign Location Variance

RECEIVED

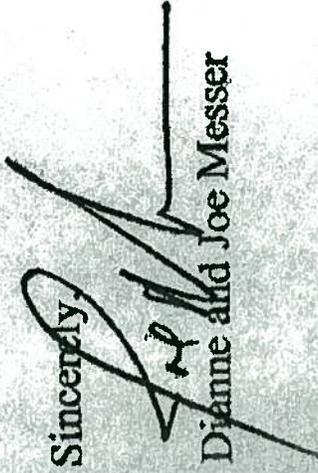
OCT 27 2011

COMMUNITY DEVELOPMENT

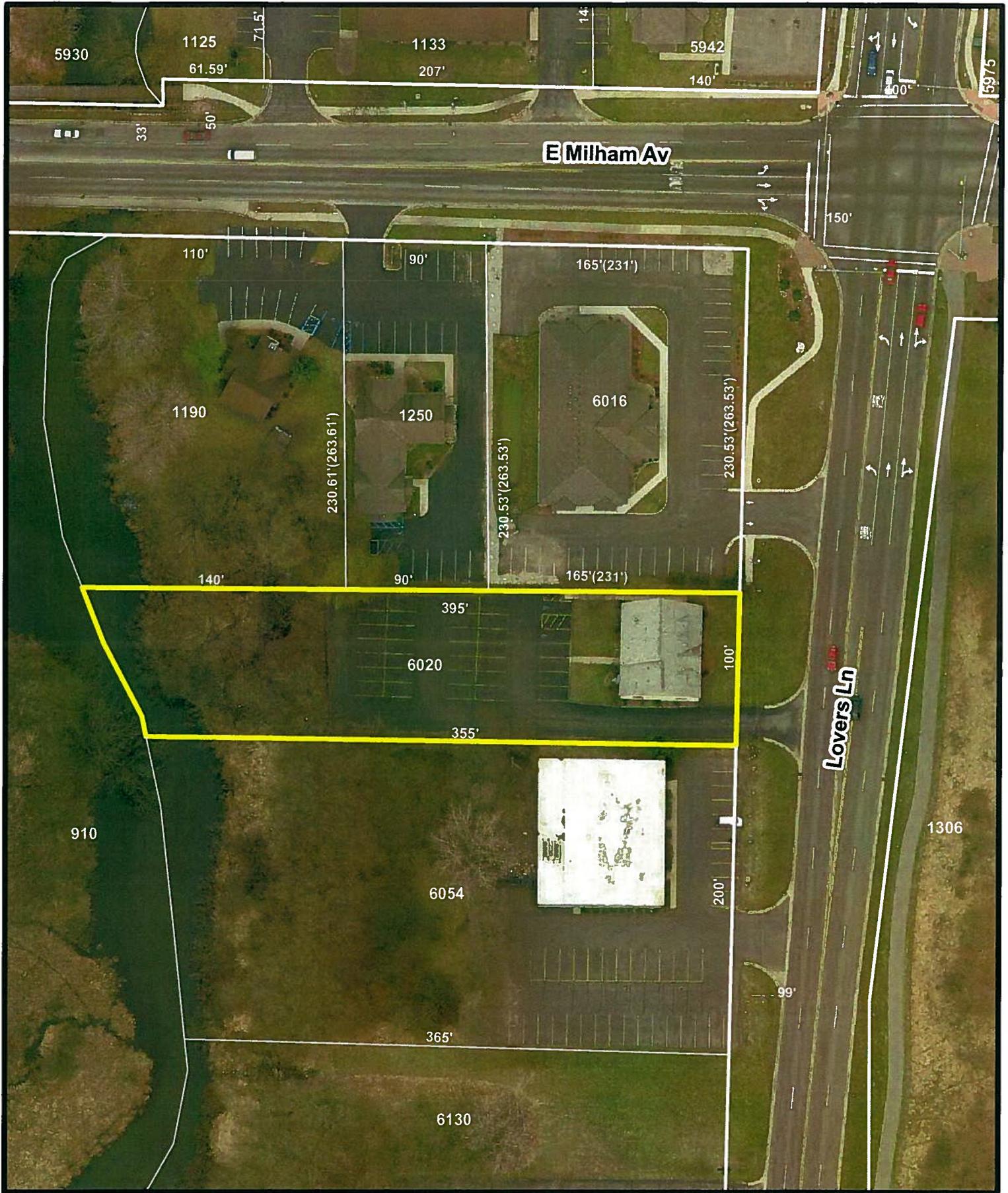
To whom it may concern:

I authorize and agree with the application for Dimensional Variance Request submitted by Charlie and Shannon Glascock of Salon Pura Vida concerning our property at 6020 Lovers Lane, Portage, MI. Please proceed with the submission of the request. If you have any questions, please contact me at your earliest convenience at 269-271-0772.

Sincerely,



Dianne and Joe Messer



ZBA #11-11
6020 Lovers Lane



1 inch = 80 feet

TO: Zoning Board of Appeals **DATE:** November 4, 2011
FROM: Vicki Georgeau, Director of Community Development
SUBJECT: ZBA #11-11; Sharon Glascock, on behalf of Salon Pura Vida, 6020 Lovers Lane; OS-1, Office Service
CODE SECTION: 42-550(A), OS-1, Office Service Signs; p. CD42:130.1
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 0.86 acre property is improved with a 2,880 square foot commercial building, off-street parking lot and related improvements. The property is zoned OS-1, office service. To the north and south of the subject property are other commercial properties and to the east is Portage Creek.

At this time, the only signage for Salon Pura Vida is a 28 square foot wall sign attached to the east side of the building. The applicant desires to install a 40 square foot freestanding sign as shown on the attached drawing. However, and as a result of the following site constraints, the visibility of the sign to passing southbound motorists is limited:

- Significant right-of-way width on the west side of Lovers Lane. In the early 1970s, Lovers Lane south of East Milham Avenue was re-aligned to the east resulting in an increase in the public right-of-way area on the west side of the roadway. The distance between the property line and the curb line is approximately 42 feet, where on a typical 4-5 lane road, this distance is 7-10 feet.
- Vision obstructions. There are existing evergreen trees located on the adjacent property to the north and at the intersection of Lovers Lane and East Milham that would obstruct the view of a sign for southbound motorists if placed in a conforming location.

The conditions noted above create unique circumstances that apply to this property that do not generally apply to other properties. The immediate practical difficulty causing the need for the variance was not created by the applicant. In addition, the variance will not be detrimental to adjacent property. Placement of the sign at the right-of-way line will not block the visibility of the nearest existing sign, which is located to the south. The sign to the south is approximately 15 feet high and the proposed sign for Salon Pura Vida will be approximately six feet high. Granting the variance 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. In addition, it is recommended the property owner be permitted to change the sign without additional review and approval by the Zoning Board of Appeals provided the sign is not structurally altered, increased in size and a sign permit is obtained.

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.**