

CITY OF
PORTAGE
A Place for Opportunities to Grow

ZONING BOARD OF APPEALS

December 12, 2011

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, December 12, 2011

(7:00 pm)

Portage City Hall

Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * November 14, 2011

NEW BUSINESS:

- * ZBA# 11-12, 3250 West Centre Avenue: Horizon Bank, N.A., 3250 West Centre Avenue, is requesting a) a variance to permit two non-accessory (off-premise) directional signs on 3200 West Centre Avenue; and b) a 34 square-foot variance to permit an 84 square-foot freestanding sign where a maximum 50 square-foot sign is permitted.
- * ZBA# 11-13, 6295 and 6355 South Westnedge Avenue: Edward Wade, on behalf of Esan LLC & Hareff LLC, 6295 and 6355 South Westnedge Avenue, is requesting a 30-foot variance to allow construction of an enclosed loading dock 45 feet from the rear (east) property line where a 75-foot minimum rear setback is required.

STATEMENT OF CITIZENS:

ADJOURNMENT:

Materials Transmitted

Star (*) indicates printed material within the agenda packet

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Minutes of Meeting – November 14, 2011

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

MEMBERS PRESENT: Mariana Singer, Lowell Seyburn, Daniel Rhodus, Betty Schimmel, Rob Linenger, David Felicijan, and Jeff Bright.

MEMBERS EXCUSED: Timothy Bunch

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 October 10, 2011 minutes with one correction. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA #11-8, 723 Lakeview Drive. Staff summarized the request for 12-foot variance from the 40-foot minimum rear (north) yard setback, to construct a new 3,427 square-foot two-story dwelling. Bill Kozar and Alexander Hanchar were present to answer questions. Bright inquired if the applicant had spoken to any of his neighbors about the request. Mr. Hanchar stated he had and that none had any objection to the request.

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 Singer, to grant a 12-foot variance from the 40-foot minimum rear yard setback to construct a new 3,427 square-foot two-story dwelling. There are exceptional or extraordinary circumstances or conditions applying to the property that do not generally apply to other properties in the zoning district which include a 10-foot private walkway between the rear property line and water's edge, the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and will not materially impair the intent and purpose of the zoning 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, Singer–Yes, Linenger–Yes, Seyburn–Yes, Rhodus–Yes, Bright–Yes, Felicijan–Yes. The motion carried 7-0.

ZBA #11-05, 7324 Oakland Drive. Staff summarized the request for a 3.5 foot variance from the 14-foot maximum building height requirement to construct a 17.5-foot high detached accessory building. Charlie Glas and Michael Chen were present to answer questions. Linenger asked the applicant to explain the practical difficulty. Mr. Glas stated the size of the lot and the proposed 30 foot north side setback. Seyburn noted the practical difficulty appeared to be necessary for the 10-foot door height required to accommodate a boat. Felicijan inquired why the applicant didn't locate the building further south or east. Mr. Glas stated moving it further east would put it closer

to neighboring residences and moving it south would create a more intrusive driveway. Mr. Chen stated he could not construct the accessory building at all and could simply store the boat outside but felt that would be an eyesore. Mr. Chen stated one other reason the building was proposed in this location was for security reasons, and with a 30-foot setback and the proposed vegetation the accessory building would hardly be visible to neighbors.

A public hearing was opened. Letters of opposition from John & Jayne Vander Veen, 7278 Oakland Drive, and Alan Wuosmaa & Nora Berrah, 7260 Oakland Drive were read. The public hearing was closed.

A motion was made by Felicijan, seconded by Seyburn to grant a 3.5 foot variance from the 14-foot maximum building height requirement to construct a 17.5-foot high detached accessory building, conditioned upon installation of a minimum of eight 16-foot to 20-foot tall spruce trees on the north side of the accessory building. 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 and layout of the lot; 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. Singer stated she had a conflict of interest and would abstain from voting. Upon roll call vote: Seyburn-Yes, Rhodus-No, Schimmel-No, Felicijan-Yes, Linenger-Yes, Singer-Abstained, Bright-Yes, the motion carried 4-2-1.

ZBA #11-10, 801 East Centre Avenue Staff summarized the request for 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 setback is required. Thomas Rogers stated he purchased the house and found a tenant who was willing to lease but needed a wheelchair ramp. Mr. Rogers said the ramp would project nine feet in front of the house and would extend about as close to the front property line as the neighbors' front steps.

A public hearing was opened. No one spoke for or against the request. The public hearing was closed.

A motion was made by Felicijan, seconded by Schimmel to grant 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 setback is required. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the age of the dwelling and existing front setback; the immediate practical difficulty causing the need for the variance request 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 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, Linenger-Yes, Singer-Yes, Bright-Yes, the motion carried 7-0.

ZBA #11-11, 6020 Lovers Lane: Staff summarized the request for a variance to erect a freestanding sign at the front property line, where a minimum ten-foot setback is required. Shannon Glascock was present to answer questions. Linenger inquired if the applicant had spoken to the property owner to the north about cutting back the vegetation. Ms. Glascock stated she had and was told they were unwilling as it was not required by code. She sent a follow-up letter again requesting removal, but has received no reply.

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

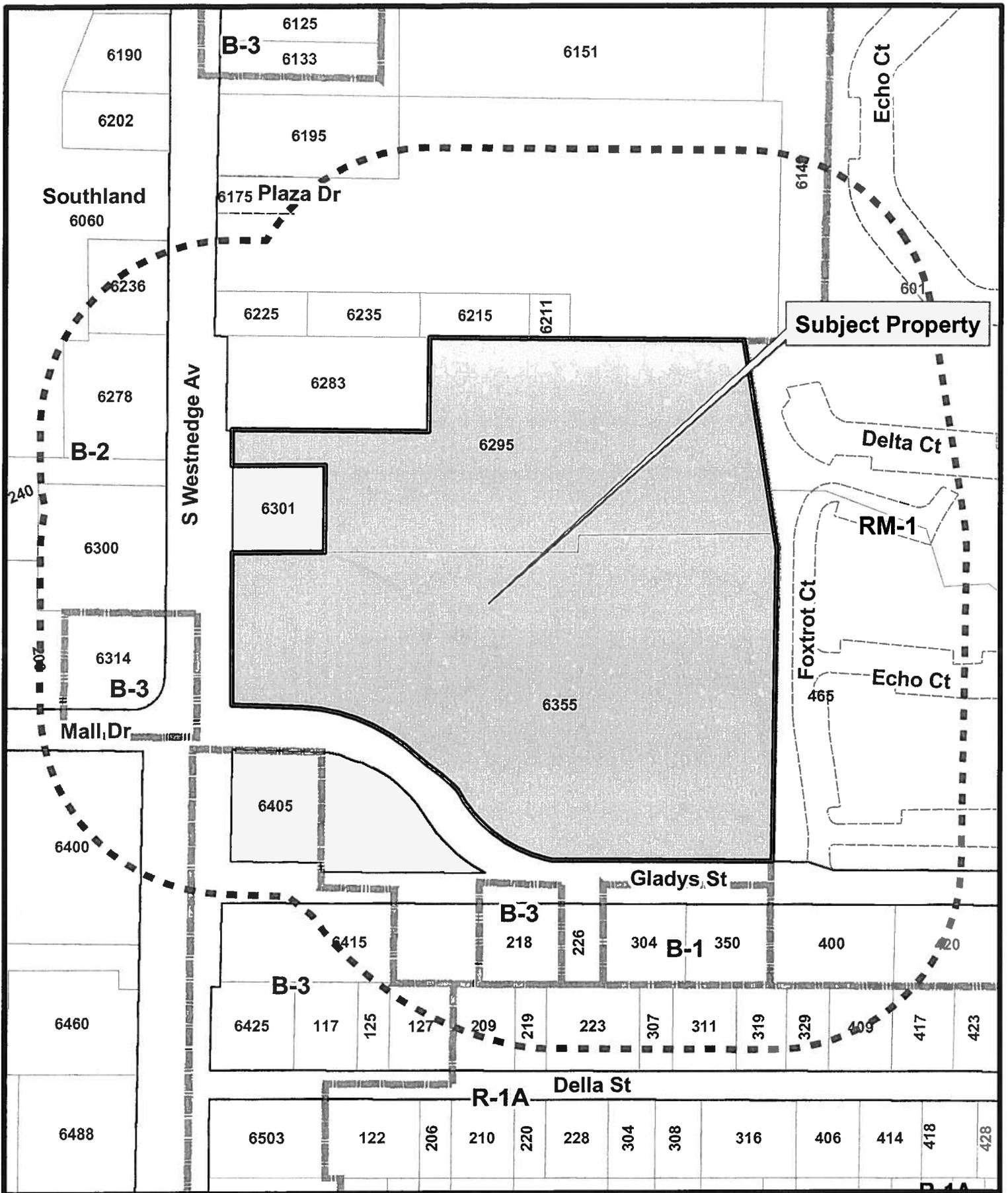
A motion was made by Felicijan, seconded by Seyburn, to grant a 10-foot variance to erect a freestanding sign at the front property line, where a minimum ten-foot setback is required. There are exceptional circumstances applying to the property which do not apply generally to other properties in the same zoning district, which include the excessive right-of-way, and the obstructed visibility to southbound traffic due to the existing vegetation on the neighboring property to the north; the immediate practical difficulty causing the need for the variance request 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 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, Linenger-Yes, Singer-Yes, Bright-Yes, the motion carried 7-0.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:15 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



Subject Property

-  Zoning Boundary
-  300' Notification Boundary
-  Subject Property

ZBA #11-13

6295 & 6355 South Westnedge Avenue



1 inch = 200 feet

RECEIVED

11-1000015

NOV 14 2011

CITY OF PORTAGE A Place for Opportunities to Grow

COMMUNITY DEVELOPMENT

Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date Nov 11, 2011

Name of Applicant EDWARD WADE Print

Signature

Applicant's Address 25001 EMERY RD #100 CLEV OH

Phone No. 216-223-3248

Name of Property Owner (if different from Applicant) C/O EBL+S PROPERTY MANAGEMENT ATTN: HOWARD LAVY

Address 230 SOUTH BROAD ST PHILADELPHIA, PA 19102 Phone No. 215-790-4700

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

Street Address 6355 WESTNEDGE AVE 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: HERSCHMAN ARCHITECTS WORKING TO ADD A DICK'S SPORTING GOODS TO THE OLD MARKET

Application Fee (Residential Uses) 8330.00 (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 75' Parking Other

Reason for Request (Also complete page 2 of application): ADDITION OF NEW RECEIVING AREA WILL ENCRONCH INTO EXISTING 75FT SETBACK TO THE WEST OF THE PROPERTY.

Appeal of Administrative Decision: Article Section Paragraph

Reason for Request:

Interpretation of the Zoning Ordinance: Article Section Paragraph

Reason for Request:

A Temporary Permit for: Building Use Other Approval

Article Section Paragraph

Reason for Request:

FOR STAFF USE

Table with 3 columns: Application Number, Filing Date, Tentative Hearing Date. Row 1: 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.)

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

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

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

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

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

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

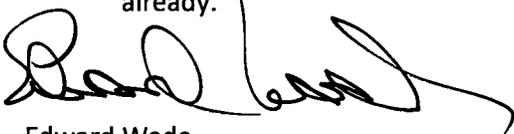
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

Signature of Applicant

Date

Reason for Variance – Portage, MI

1. The current property at 6355 Westnedge Ave has a 75ft set back on both open side of the building. Since this is an existing building and Dicks Sporting Goods will be occupying the right side of the space with an another tenant on the left (who will be using the existing loading dock area) the adding of a needed receiving area on either the south or east sides will be in violation of the existing 75ft set back variance.
2. The existing shopping centers to the west and north are new and may not have had existing setbacks to work around.
3. The existing building would work if one tenants where to occupy the entire building as Kmart once did. With the building being divided into two tenant spaces on of the tenants would require a receiving area. It would be impossible for Dick's Sporting Goods to occupy the space without a receiving area that trucks could unload their pallets or sporting goods equipment.
4. Herschman Architects along with the developer spend several months reviewing how best to locate and size the loading dock area. Typically the loading dock is 50ft in depth. We've reduced this to 30ft as not to encroach too much on the existing 75ft setback.
5. The existing covered loading docks to the north where originally built are aproxamently 30ft in width that was originally built projects roughly 30ft+/- away from the building and actually is currently in the 75ft setback. The new loading dock will not encroach any more than the existing and will not cause any extra hardships. Also the entire site will be upgraded with a landscape buffer to the east of the building that will add additional screening for all eastern views of the building.
6. The receiving area will be located to the rear of the building and trucks would access the receiving area as they do today. Dicks Sporting Goods receives inventory once a day so there will be limited truck traffic added to the area.
7. The existing property wasn't designed for multiple tenants. When the previous owner design and built the store it was done so for a single tenant. With the owner trying to fill an empty building with viable tenants who occupy lesser area then the original tenant the need for a receiving area for one of the two tenants is necessary for the tenants to operate in the building.
8. The granting of the variance would allow an existing vacant building to be brought back to life and revitalize the area. With this will also come upgrade to the site and landscape buffers to soften the existing impact of the building itself. In the spirit of the variance ordinance we would ask that the new receiving area not encroach any more than the existing receiving area does already.



Edward Wade

November 11, 2011

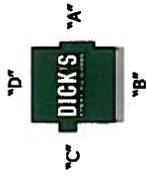
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**6355 S WESTNEDGE AVE
PORTAGE, MI
EXHIBIT K
Store #1006**

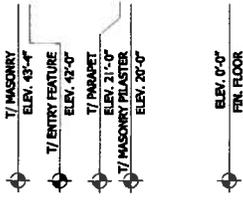
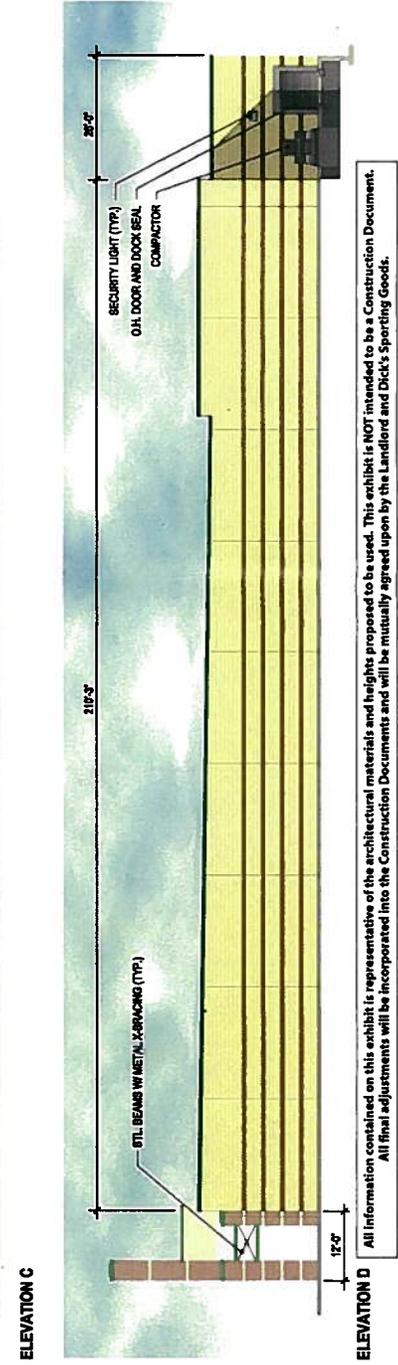
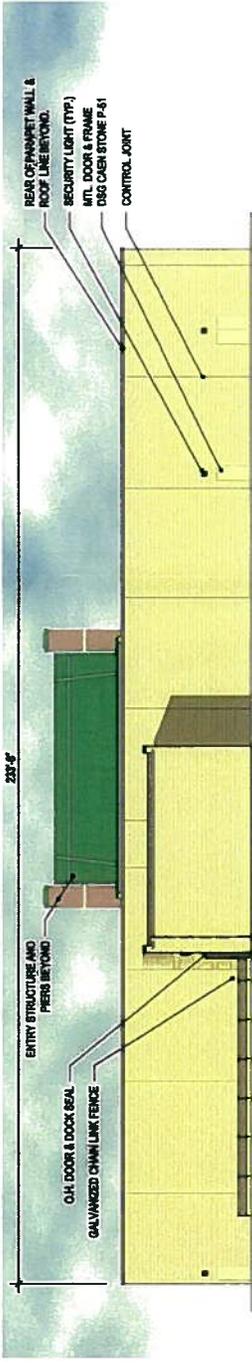
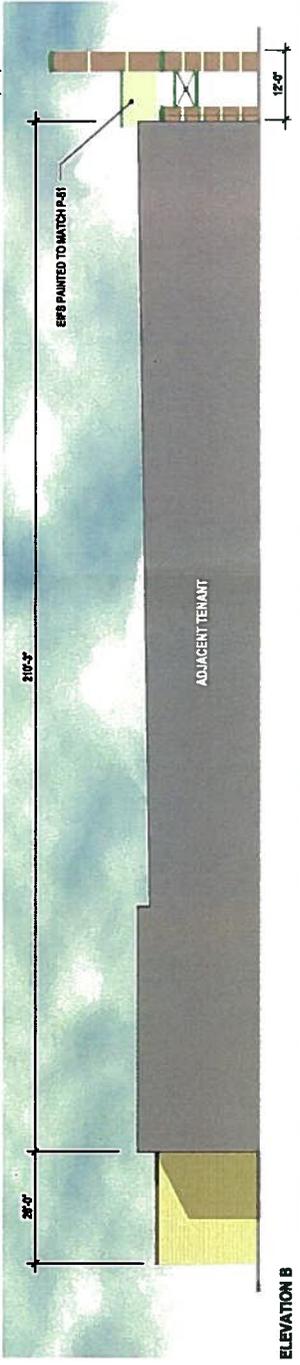
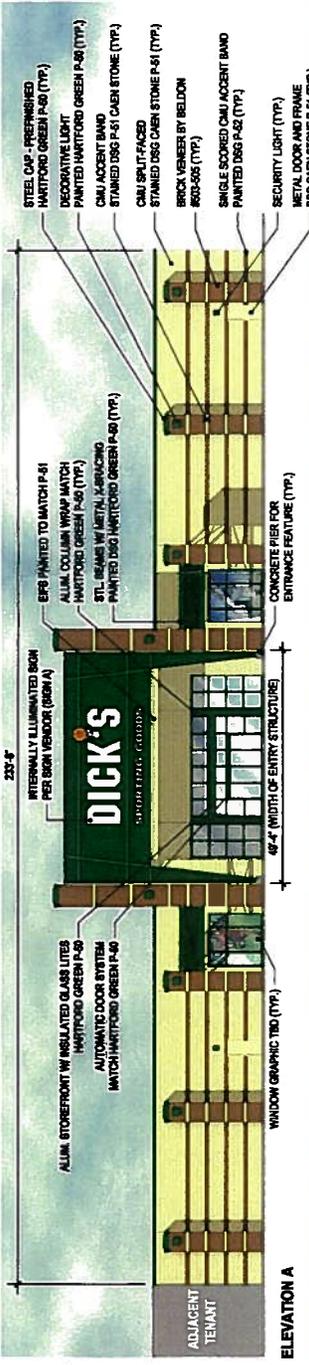


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Key Plan

REV 1	04.20.2011	
REV 2	07.15.2011	
REV 3		
REV 4		
REV 5		
DKS APPROVAL	DATE	3.4.2011
L. APPROVAL	DATE	4.13.2011



All information contained on this exhibit is representative of the architectural materials and heights proposed to be used. This exhibit is NOT intended to be a Construction Document. All final adjustments will be incorporated into the Construction Documents and will be mutually agreed upon by the Landlord and Dick's Sporting Goods.

1. The information on this drawing was prepared by the architect based on information furnished by the client. The architect assumes no responsibility for the accuracy or completeness of the information furnished. The architect shall not be held responsible for any errors or omissions in this drawing. The architect shall not be held responsible for any delays or interruptions in the construction of the project. The architect shall not be held responsible for any changes or modifications to the project. The architect shall not be held responsible for any claims or damages arising from the use of this drawing.

2. The information on this drawing was prepared by the architect based on information furnished by the client. The architect assumes no responsibility for the accuracy or completeness of the information furnished. The architect shall not be held responsible for any errors or omissions in this drawing. The architect shall not be held responsible for any delays or interruptions in the construction of the project. The architect shall not be held responsible for any changes or modifications to the project. The architect shall not be held responsible for any claims or damages arising from the use of this drawing.

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Drawn By:
 Project No:
 Date:

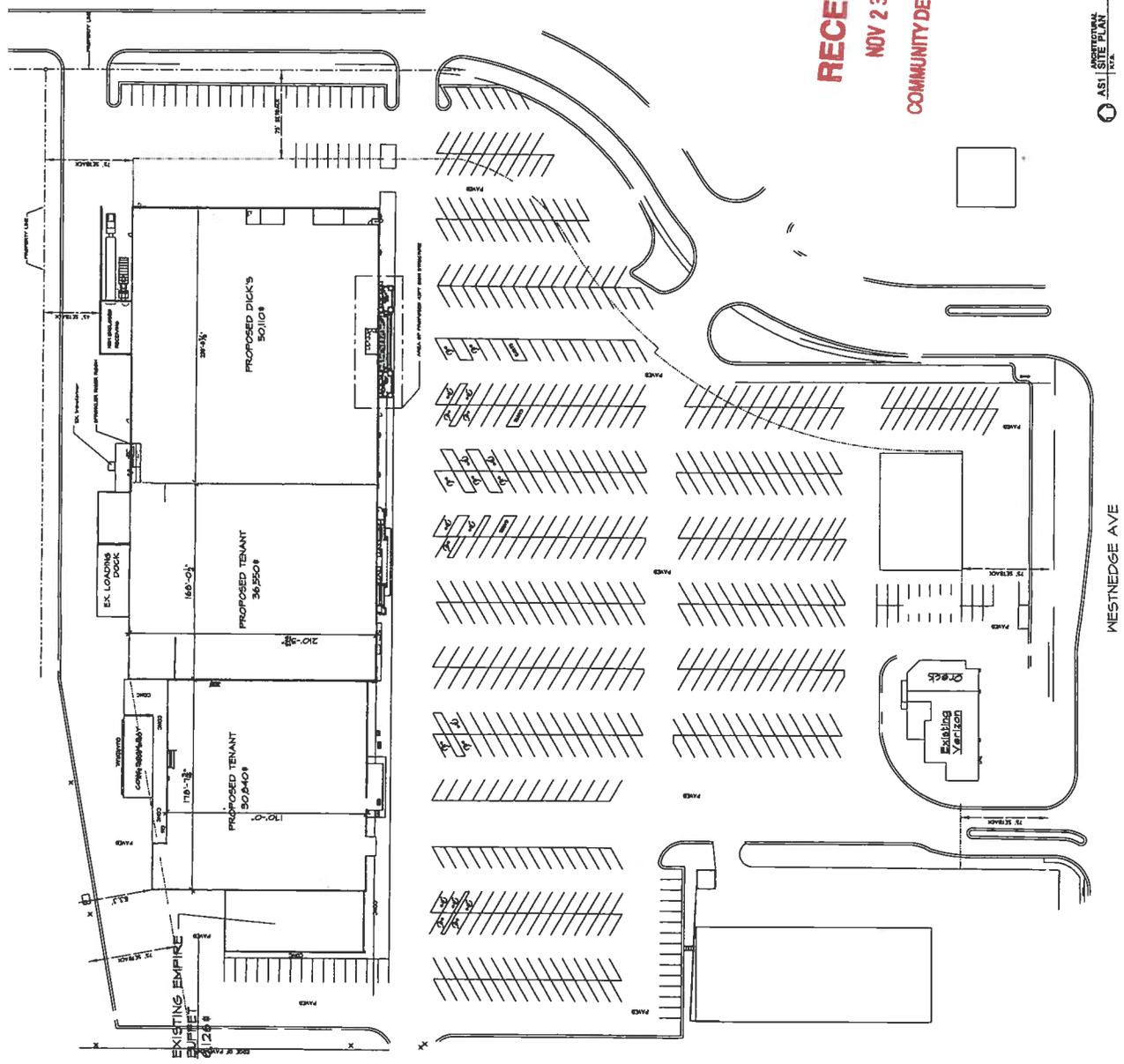
DICK'S SPORTING GOODS
 8100 # 1005
 6345 SOUTH WESTNEDGE AVE PORTAGE, MI



ARCHITECTURE
 2000 WEST 10TH AVE
 SUITE 100
 GRAND RAPIDS, MI 49508
 TEL: (616) 742-1000
 FAX: (616) 742-1001
 WWW.AS10.COM

SITE/LANDSCAPE
 PLANS
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ARCHITECTURAL
 SITE PLAN
 AS10

TO: Zoning Board of Appeals **DATE:** December 2, 2011
FROM: Vicki Georgeau, ^{VA} Director of Community Development
SUBJECT: ZBA #11-13; Edward Wade, on behalf of Esan LLC & Hareff LLC, 6295 and 6355 South Westnedge Avenue; B-2, Community Business
CODE SECTION: 42-350(A) and (B)(15) Schedule of Regulations; p. CD42:84 and 93
APPEAL: Requesting a 30-foot variance to allow construction of an enclosed loading dock 45 feet from the rear (east) property line where a 75-foot minimum rear setback is required.
STAFF RECOMMENDATION:

The applicant requests the above variance per the enclosed application, site and elevation sketches. The 13.69 acre zoning lot consists of two properties, 6295 and 6355 South Westnedge Avenue, and is improved with a 122,169 square foot commercial building, off-street parking lot and related improvements. The property is zoned B-2, Community Business. Commercial properties are located to the north, south, and west, and to the east is an apartment complex, zoned RM-1, Multi-Family Residential.

The commercial building received site plan approval in 1974 conditioned upon the loading areas for each store being located in the rear. At that time, the property to the east was vacant and zoned B-2, Community Business and I-1, Light Industrial. The property was rezoned to RM-1, Multi-Family Residential in 1977 and construction of the Newport Village Apartments began in 1978. After approval of the zoning change, the two existing covered loading docks became legally nonconforming, as the north dock extends to within 66 feet of the rear (east) property line, and the south dock extends to within 46 feet of the rear (east) property line.

The applicant now plans an overall update of the shopping center which includes building façade improvements, new signage, and modifications to the parking lot and landscaping which is good news as the center has experienced significant vacancies for several years. A new anchor tenant, Dick's Sporting Goods, will occupy 50,110 square feet of the former K-Mart store, and construction of a 30-foot wide by 44-foot deep enclosed receiving/loading dock at the rear of the building is proposed. The nearest residential unit to the proposed loading dock is approximately 140 feet to the east. The loading dock would extend to within 45 feet of the rear (east) property line where a minimum 75-foot setback applies, and a variance is therefore requested.

No known complaints have been received concerning the existence or operation of the two nonconforming loading docks since their construction 36 years ago, and similarly, negative impacts are not anticipated with the subject proposal. The proposed enclosed loading area will provide protection from the elements for shipping activities, and will also help mitigate potential impacts from shipping-related activities, such as noise, light and debris. The property to the east was rezoned after the commercial building was constructed and the immediate practical difficulty causing the need for the variance request was not self-created. In addition, the variance will not materially impair the intent and purpose of the Zoning Ordinance. For these reasons, the variance can be recommended.

PRACTICAL DIFFICULTY: Location of existing building; rezoning of property to the east; enclosure mitigates potential negative impacts. 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:

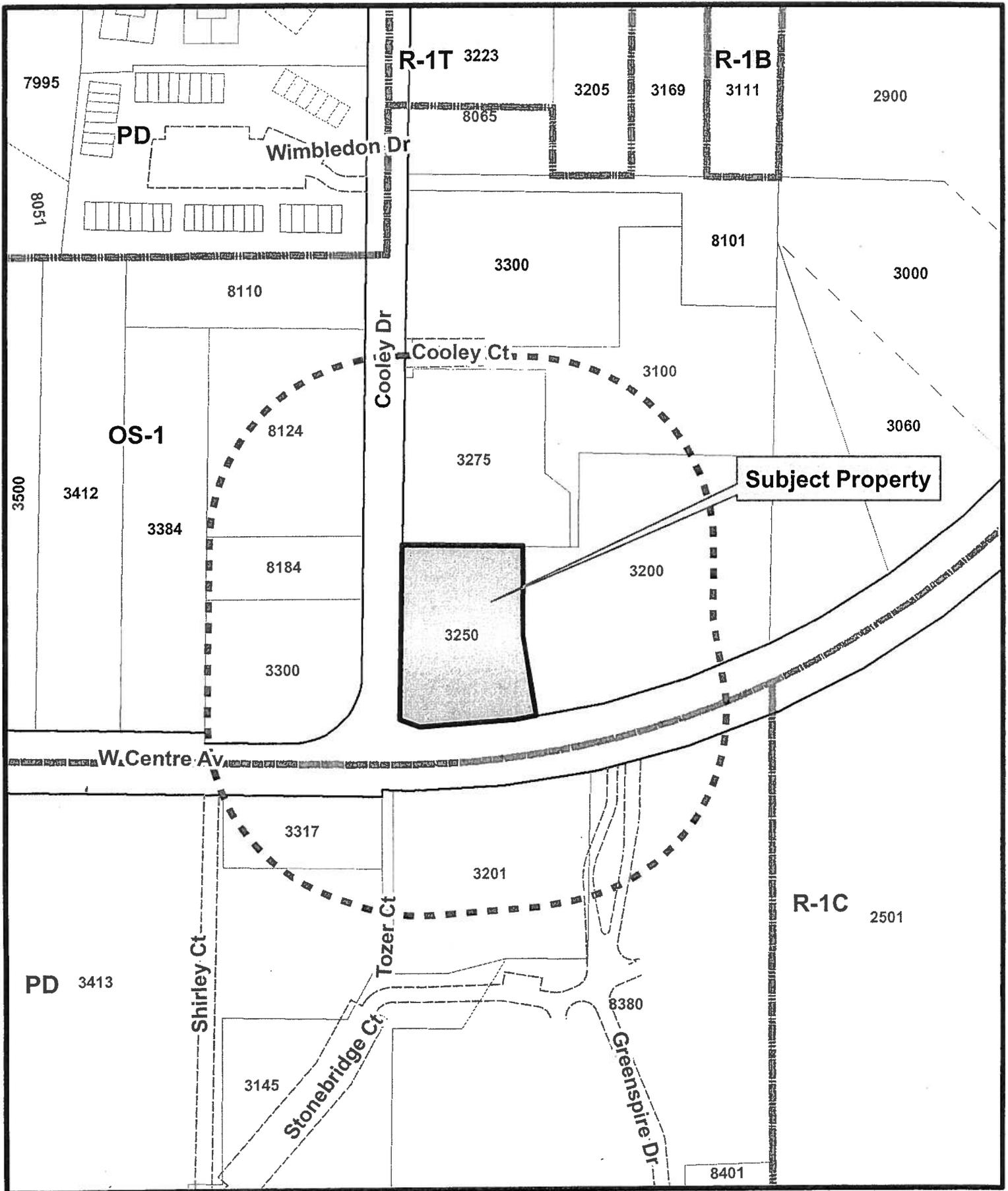
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right 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 #11-12

3250 West Centre Avenue

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NOV 14 2011

COMMUNITY DEVELOPMENT

Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 11/11/11
 Name of Applicant Horizon Bank, N.A. [Signature]
 Applicant's Address 1300 West Centre Avenue, Suite 104, Portage Phone No. (269) 216-0020
 Name of Property Owner (if different from Applicant) Same
 Address Same Phone No. _____

Address of the Property that is the subject of this Application:
 Street Address 3250 West Centre Avenue, Portage
 For Platted Property: Lot _____ of _____ Plat _____

[If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.] PLEASE SEE ATTACHED
 Applicant's interest in Property that is the subject of this Application: Applicant recently purchased the
property. The closing date was August 1, 2011.

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 4 Section 42-550 Paragraph A
 Regarding: Use _____ Area _____ Yards _____
 Setbacks _____ Parking _____ Other maximum permitted freestanding sign size

Reason for Request (Also complete page 2 of application): Practical difficulties exist due to topography of property
and trees at the edge of the lot and viewability of the sign. A variance is also needed for uniformity of the
electronic message display portion of the free standing sign. SEE ATTACHED *ADDENDUM TO 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:	Filing Date: <u>11/14/2011</u>	Tentative Hearing Date: <u>12/12/11</u>
Previous Application Filed Regarding This Property: <u>ZBA 11-12</u>		

City of Portage
Zoning Board of Appeals Application
Applicant: Horizon Bank, N.A.

Reason for Variance

1. The property in question is of an irregular shape and has a topography that results in the frontage along Centre Avenue being significantly lower than the level of the street. In addition, there are natural features to the property including the tree line along the western perimeter of the property that limit the visibility of signage related to the property. These property features make it difficult for the free standing sign with its electric message display and bank name portions to be seen with the size restrictions contained in the ordinance.
2. None of the adjacent properties share both the topography of the property in question and the tree screening along the property line. While some adjacent properties have some tree screening, the combination of these two factors create practical difficulties with regard to the sign size limitations of the ordinance.
3. The property certainly can be used for the uses permitted in the zoning district and we are not seeking a use variance. The variance being sought is a dimensional variance with regard to the sign size for the free standing sign.
4. We believe that the variance requested is the minimum variance necessary to properly utilize the electronic message display portion of the sign and the logo portion. However, we are willing to work with city staff in the event that a fair lesser variance could be found which would maintain the message board sign and provide reasonable view of the logo and business name.
5. The variance requested would not result in adverse effects on the adjacent properties as the sign face and base that is currently there appears to be of greater size to that being requested. As a result, the variance on the new sign would actually reduce the size of the sign and base and the visual obstruction along Centre Avenue. The existing sign and the solid base which is part of that sign equal over 100 square feet of visual obstruction. The requested sign creates a visual obstruction of approximately 84 square feet.
6. The variance requested would not increase the traffic, congestion, noise or other potential concerns or dangers from fire, flood or hazard as is simply a dimensional variance of a sign size and would not block the view of any of the traffic along Centre Avenue. In fact, because of the height and construction of the sign, the view of traffic would be enhanced by the proposed sign.
7. No.
8. The variance requested would fulfill the spirit and intent of the zoning ordinance as the original sign could be maintained as it is susceptible to being re-lettered. It creates a larger visual obstruction than would the proposed sign. The proposed sign would enhance both the visual aesthetics of the area and based on its design and location, would reduce the visual obstruction across the front of the property.

*Addendum to Application

A variance is also needed for the location of signs 3 and 4 as they need to be located on property owned by Kalamazoo Physicians Realty Company, LLC, the adjacent property owner, pursuant to an Easement Agreement, a copy of which is attached to this Application. Sign 2 will be located just behind the row line of Cooley Drive. The sign height of the freestanding sign will conform to the height permitted by the ordinance.

premises situated in

The City of Portage, County of Kalamazoo and State of Michigan to wit:

Part of the Northwest Quarter of Section 20, Town 3 South, Range 11 West, City of Portage, Michigan, more particularly described as follows:

Commencing at the Northwest corner of Section 20, Town 3 South, Range 11 West; thence South 00 degrees 33 minutes 14 seconds East 982.64 feet along the West line of said Section 20 for the Place of Beginning; thence North 89 degrees 55 minutes 21 seconds East 220.00 feet; thence South 00 degrees 04 minutes 39 seconds East 140.00 feet; thence South 10 degrees 04 minutes 39 seconds East 141.23 feet to the Northerly right-of-way line of New Centre Street; thence 210.19 feet along the arc of a curve to the right and the Northerly right-of-way line of New Centre Street, whose radius is 1382.39 feet, central angle of 08 degrees 42 minutes 43 seconds and chord bearing South 84 degrees 27 minutes 54 seconds West 209.99 feet; thence Westerly 33 feet to the West line of said Section 20; thence North 00 degrees 33 minutes 14 seconds West 299.07 feet to the Place of Beginning.

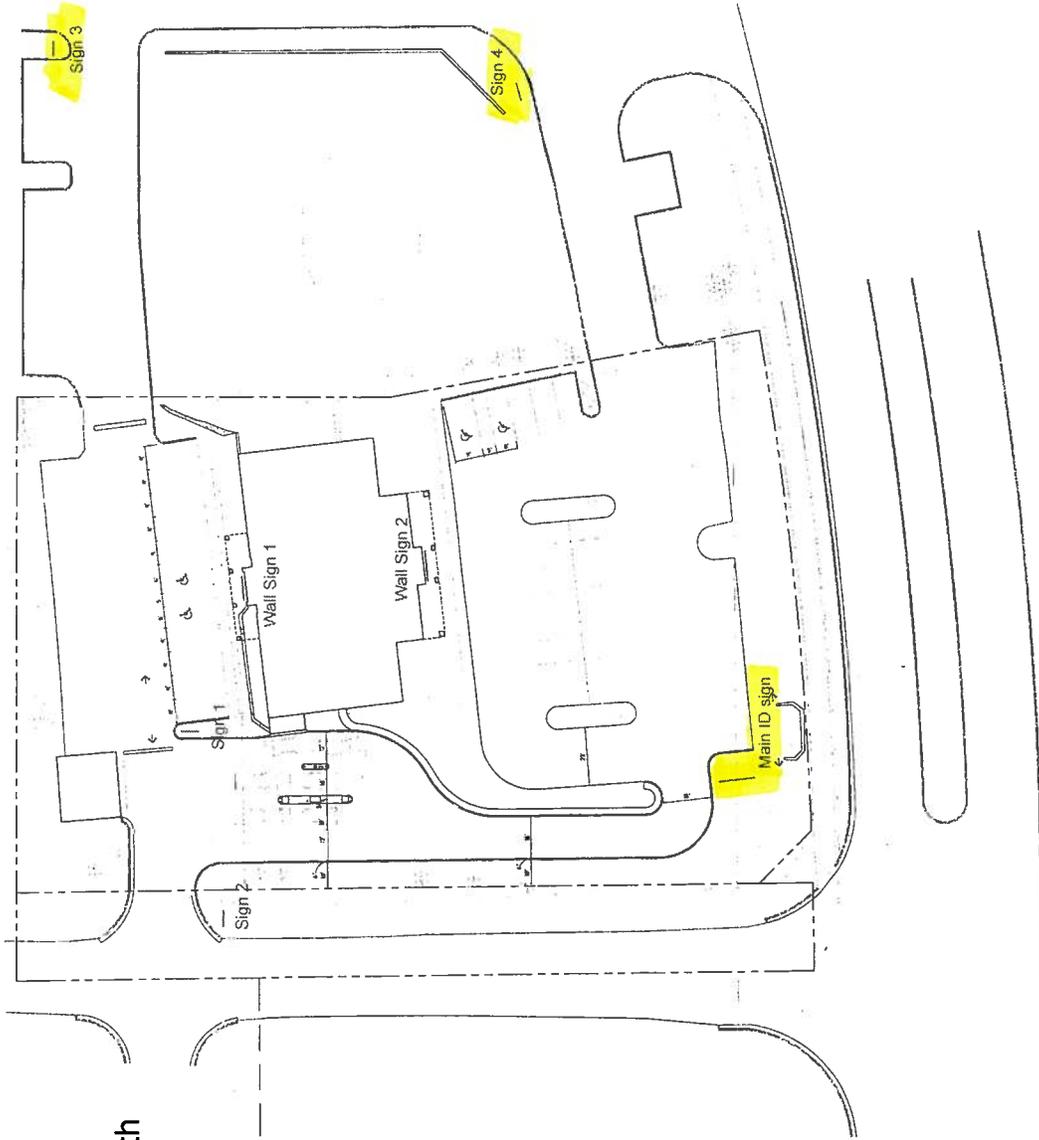
Excepting therefrom:

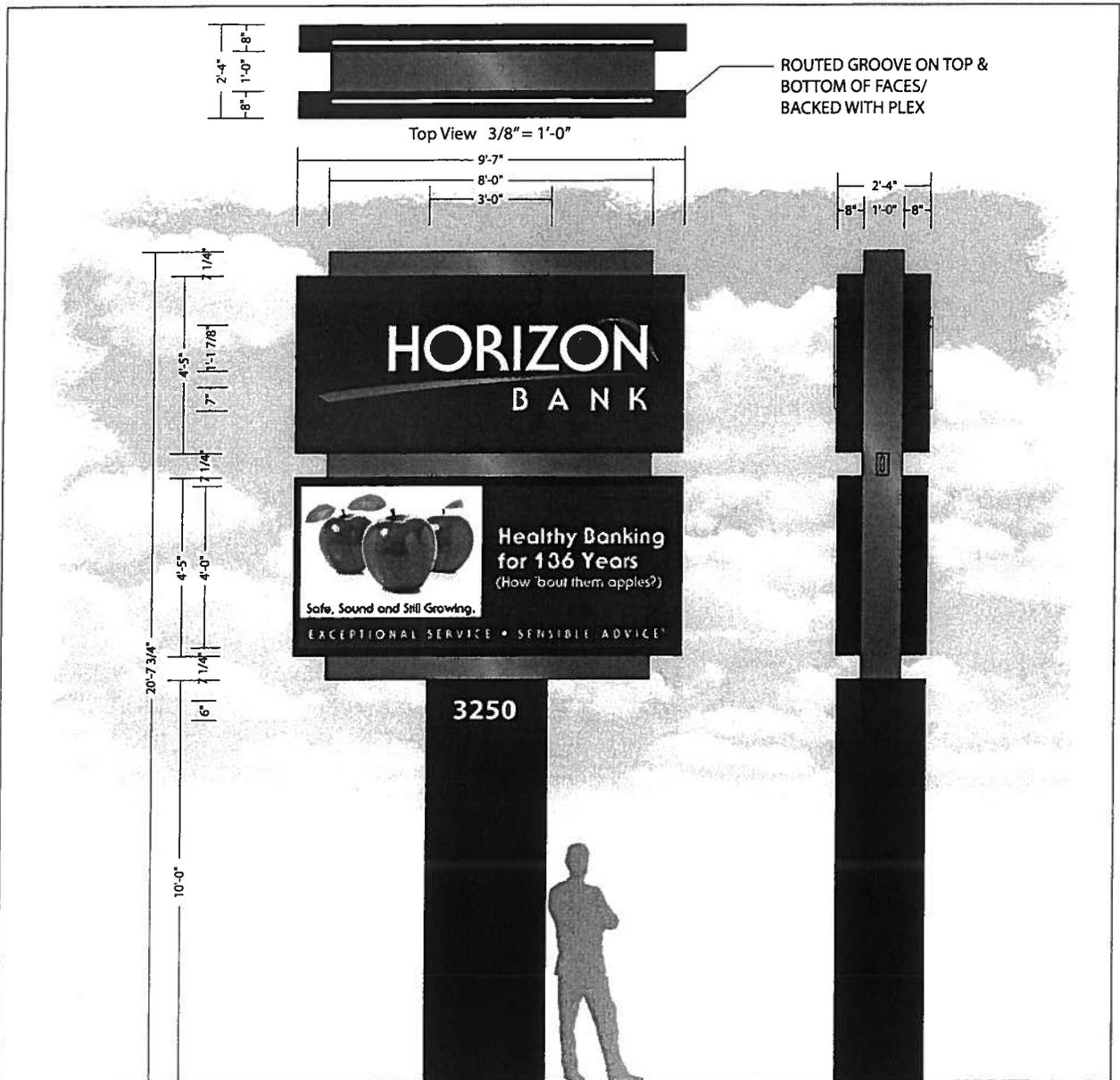
A triangular parcel of land situated in the Northwest Quarter of Section 20, Town 3 South, Range 11 West, City of Portage, Michigan, more particularly described as: Commencing at the Northwest corner of said Section 20; thence South 00°33'14" East on the West line of said Section 20, a distance of 1281.71 feet; thence East 33 feet to the point of beginning of the land hereinafter described; thence North 00°33'14" West parallel with the West line of said Section 20, a distance of 20 feet; thence South 46°04'26" East 28.03 feet to the Northerly right-of-way line of New Centre Street; thence Westerly 20.00 feet on a 1382.29 foot radius curve to the right whose chord bears South 88°24'33" West 20.00 feet to the point of beginning.

Together with an easement for Entrance on New Centre Street and Storm Water Retention as evidenced by the instrument recorded September 1, 1992 in Liber 1585, Page 622.

Together with an Easement for Ingress/Egress and Signage as evidenced by the instrument recorded August 3, 2011, in Document No. 2011-024689.

↑ North





Front View 3/8" = 1'-0"

Side View 3/8" = 1'-0"

- ▶ ONE DOUBLE FACE INTERNALLY ILLUMINATED SIGN; ROUTED ALUCOBOND WITH 3/4" WHITE PLEX PUSH-THRU COPY & GRAPHICS/ WITH EXT. APPLIED VINYL LOGO GRAPHICS/ WITH (2) SINGLE FACE FULL COLOR LED ELECTRONIC DISPLAY UNITS
- ▶ SIGN CABINET TO HAVE GROOVE ROUTED ON TOP & BOTTOM, BACKED WITH PLEX, FOR HALO LIGHTING

LED ELECTRONIC DISPLAY UNIT SPECS:	
Type:	(2) SINGLE FACE Full Color LED UNITS
Face Type:	Single Face
Pixel Pitch:	25mm
Matrix:	48 x 112
Cabinet Ht.:	4'-5"
Cabinet Length:	9'-7"
Viewing Area:	4'-0" x 9'-4"
Character Ht.:	7'-4"
Cabinet Depth:	8"

○ SIGNCASE = MAP PMS 876 METALLIC COPPER
 SHOEBOX FACE BKGD & 8" RETURNS = PMS 350 DK GREEN
 ROUTED GROOVE BACKER = WHITE PLEX

○ HORIZON BANK = 3/4" WHITE PLEX PUSH-THRU GRAPHICS = 3/4" WHITE PLEX PUSH-THRU with EXT. APPLIED 220-229 METALLIC COPPER VINYL FACES

○ POLE COVER = MAP BLACK
 1349 = WHITE VINYL

Designed for 110 Volts

Electrical Connection will be Visible within 8 Ft. at time of Installation. Second Trip will be Charged at Time & Material



7424 Industrial Avenue
 Chesterton, IN 46304
 phone 219.762.8577
 fax 219.762.4259

SO-9975-1 PRINT #	SHAUN O'BRIEN LSG SALES REP:
HORIZON BANK CLIENT NAME	3250 CENTRE ST. PORTAGE, MI JOB LOCATION
04.21.11 DATE	JM DRAWN BY
	3/8" = 1'-0" SCALE

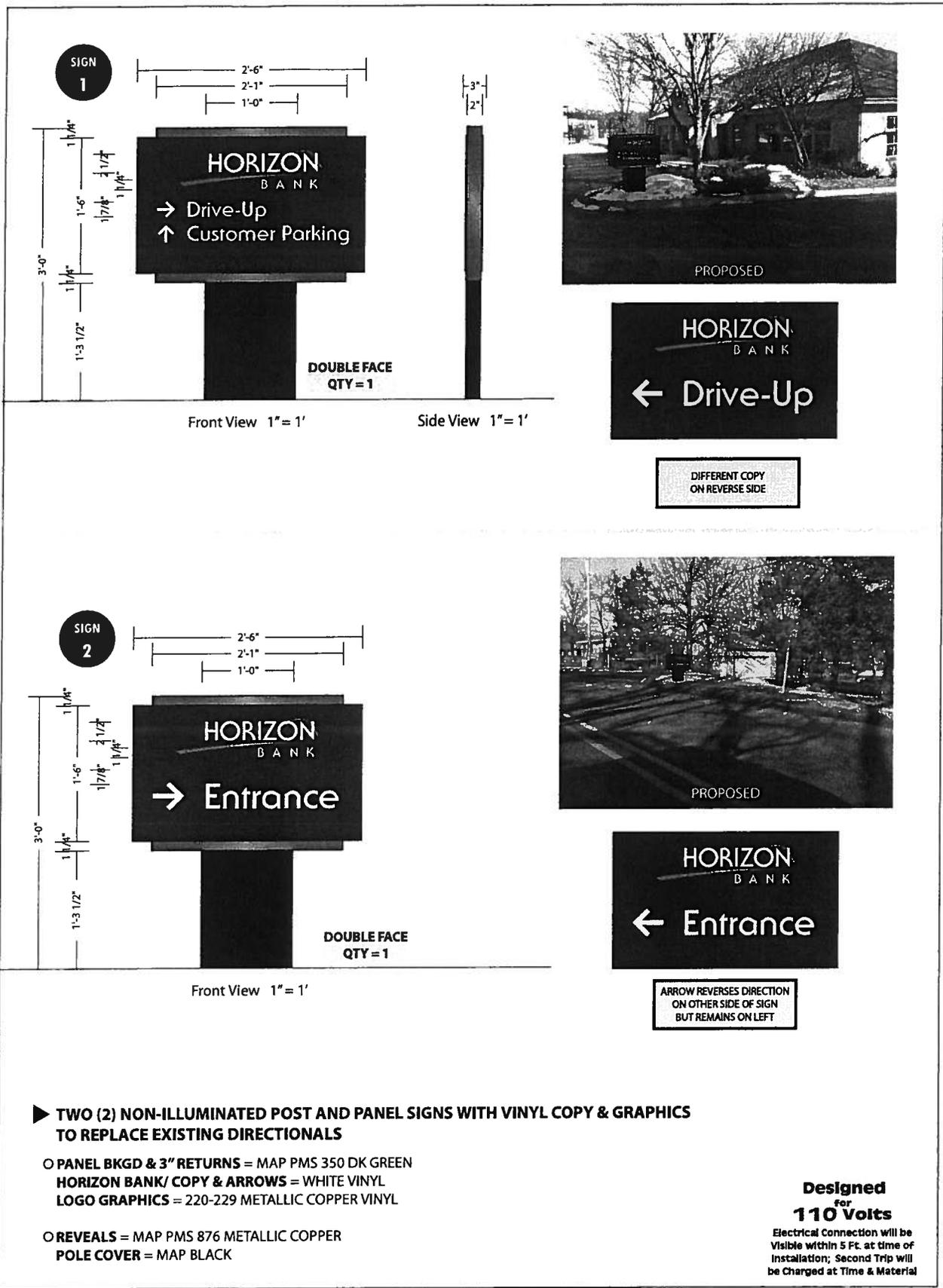
REVISIONS:
 1. CHANGED CABINET SIZES 092611 MS

X Customer Acceptance SIGNATURE DATE

X IF REQUIRED: Landlord Acceptance SIGNATURE DATE

L.S.G. SALES INITIALS DATE

THIS DRAWING IS THE PROPERTY OF LANDMARK SIGN GROUP, INC. NO REPRODUCTIONS OR EDITIONS ARE PERMITTED WITHOUT THE EXPRESS WRITTEN CONSENT OF LANDMARK SIGN GROUP, INC. AN ASSESSMENT OF UP TO \$7,800.00 WILL BE CHARGED FOR ANY REUSE OF THIS DRAWING. By signing the Customer Acceptance on this print, I understand that I am accepting all aspects of this drawing. This includes Artwork, Specifications, Dimensions, Spelling, and all other representations herein. I also understand that color reproductions on this print are approximate, and may not match manufacturers samples exactly.



► **TWO (2) NON-ILLUMINATED POST AND PANEL SIGNS WITH VINYL COPY & GRAPHICS TO REPLACE EXISTING DIRECTIONALS**

○ **PANEL BKGD & 3" RETURNS = MAP PMS 350 DK GREEN**
HORIZON BANK/ COPY & ARROWS = WHITE VINYL
LOGO GRAPHICS = 220-229 METALLIC COPPER VINYL

○ **REVEALS = MAP PMS 876 METALLIC COPPER**
POLE COVER = MAP BLACK

Designed for 110 Volts
 Electrical Connection will be Visible within 5 Ft. at time of Installation; Second Trip will be Charged at Time & Material



7424 Industrial Avenue
 Chesterton, IN 46304
 phone 219.762.9577
 fax 219.762.4259

SO-9975-2
PRINT #

SHAUN O'BRIEN
 LSG SALES REP:

HORIZON BANK

3250 CENTRE ST.
PORTAGE, MI
 JOB LOCATION

CLIENT NAME

JIM

1" = 1'-0"

04.21.11

DRAWN BY

SCALE

DATE

REVISIONS:

1. REVISED COPY 04.25.11 MS

Customer Acceptance SIGNATURE

DATE

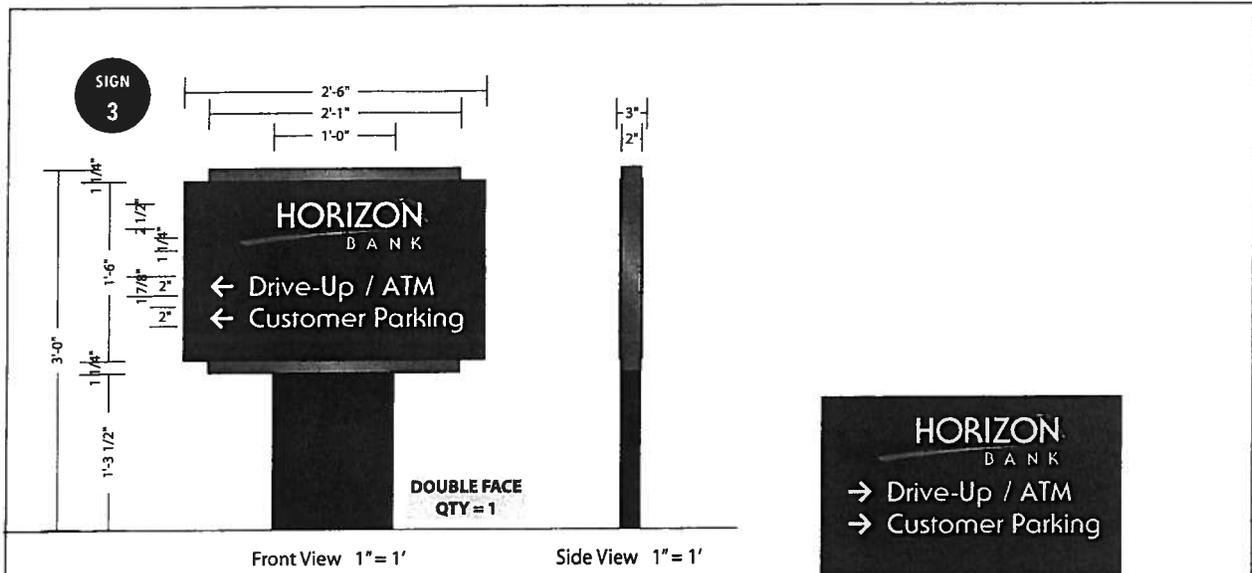
IF REQUIRED: Landlord Acceptance SIGNATURE

DATE

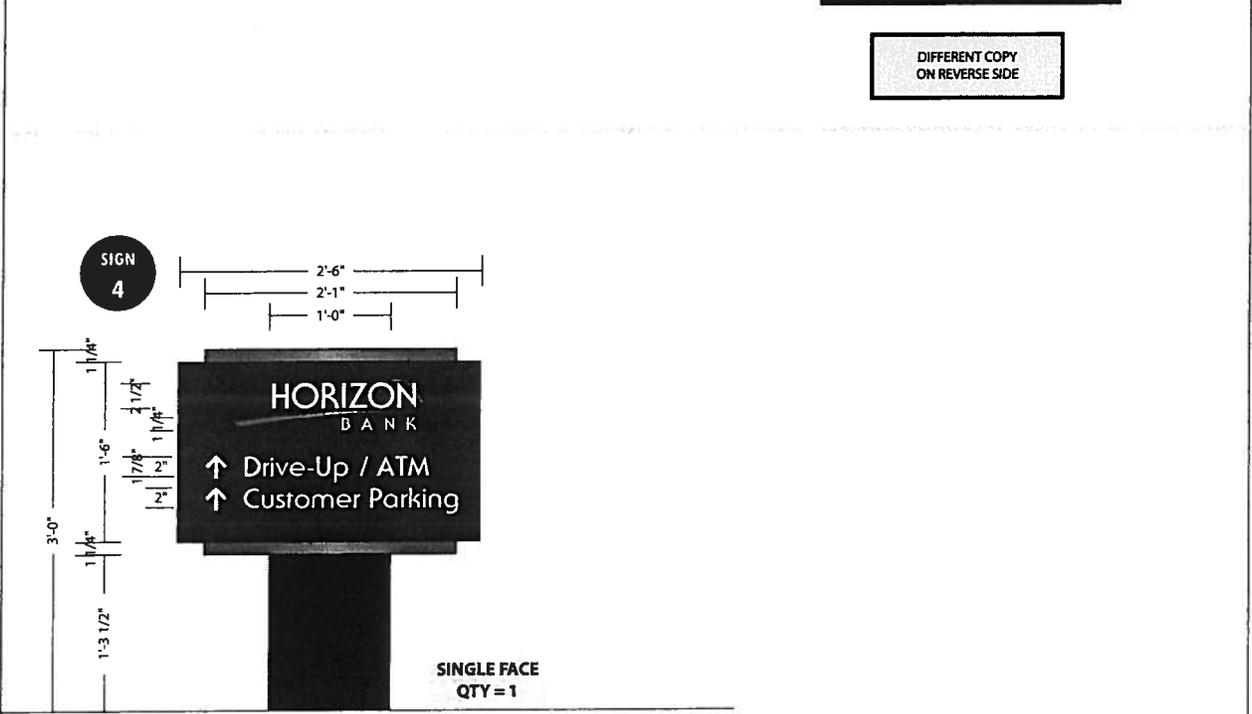
L.S.G. SALES INITIALS

DATE

THIS DRAWING IS THE PROPERTY OF LANDMARK SIGN GROUP, INC. NO REPRODUCTIONS OR EDITIONS ARE PERMITTED WITHOUT THE EXPRESS WRITTEN CONSENT OF LANDMARK SIGN GROUP, INC. AN ASSESSMENT OF UP TO \$2,500.00 WILL BE CHARGED FOR ANY MISUSE OF THIS DRAWING. By signing the Customer Acceptance on this print, I understand that I am accepting all aspects of this drawing. This includes Artwork, Specifications, Dimensions, Spelling, and all other representations herein. I also understand that color reproductions on this print are approximate, and may not match manufacturers samples exactly.



DIFFERENT COPY
ON REVERSE SIDE



► **TWO (2) NON-ILLUMINATED POST AND PANEL SIGNS WITH VINYL COPY & GRAPHICS TO REPLACE EXISTING DIRECTIONALS**

- PANEL BKGD & 3" RETURNS = MAP PMS 350 DK GREEN
HORIZON BANK/ COPY & ARROWS = WHITE VINYL
LOGO GRAPHICS = 220-229 METALLIC COPPER VINYL
- REVEALS = MAP PMS 876 METALLIC COPPER
POLE COVER = MAP BLACK

**Designed
for
110 Volts**

Electrical Connection will be Visible within 5 Ft. at time of Installation; Second Trip will be Charged at Time & Material



7424 Industrial Avenue
Chesterton, IN 46304
phone 219.762.9577
fax 219.762.4259

SO-9975-4
PRINT #

SHAUN O'BRIEN
LSG SALES REP:

HORIZON BANK
CLIENT NAME
10.06.11
DATE

3250 CENTRE ST.
PORTAGE, MI
JOB LOCATION
JM
DRAWN BY

1" = 1'-0"
SCALE

REVISIONS:

1.

X
Customer Acceptance SIGNATURE DATE
IF REQUIRED: Landlord Acceptance SIGNATURE DATE
L.S.G. SALES INITIALS DATE

KREIS ENDERLE

KREIS, ENDERLE, HUDGINS & BORSOS, P.C.

Thomas G. King

Direct Dial 269-321-2336
tking@KreisEnderle.com

P.O. Box 4010
Kalamazoo, MI 49003-4010
269-324-3000
Fax 269-324-3010

www.KreisEnderle.com

November 21, 2011

RECEIVED

NOV 23 2011

COMMUNITY DEVELOPMENT

Attn: Jeff Mais
Zoning and Codes Administrator
Department of Community Development
City of Portage
7900 South Westnedge Avenue
Portage, MI 49002

Re: Horizon Bank Zoning Board of Appeals Application

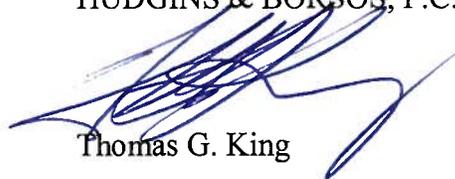
Dear Mr. Mais:

After your telephone call to me of last week we contacted Dr. Elluru as a representative of the adjacent property owner and inquired as to whether the adjacent property owner would consent to either trimming or removal of a portion of the tree line along the east edge of the Horizon Bank property. Dr. Elluru listened to Horizon's request but respectfully declined permission to either trim the trees of the tree line or to remove any trees from the tree line. As a result please be advised that that is not an option with regard to the visibility of Horizon Bank's free standing sign.

If you have any further questions please don't hesitate to contact me.

Very truly yours,

KREIS, ENDERLE,
HUDGINS & BORSOS, P.C.



Thomas G. King

TGK/mbd

cc: Dennis Kuhn, Horizon Bank
Shawn O'Brien
Jim Jaksa

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made this 1 day of Aug., 2011, between KALAMAZOO PHYSICIANS REALTY COMPANY, LLC, a Michigan limited liability company, with offices located at 4855 West Centre Avenue, Portage, Michigan 49024 ("KPRC") and HORIZON BANK NATIONAL ASSOCIATION, a national banking institution with offices located at 502 Franklin Street, Michigan City, Indiana 46360 ("Horizon Bank").

This instrument is exempt from state and county transfer tax under MCL §207.526(a) and MCL §207.505(a) as the consideration is less than \$100.00.

Background

A. KPRC is the owner of land legally described in attached Exhibit "A" as the "KPRC Parcel." Horizon Bank is the owner of the land adjacent to the KPRC Parcel that is described in Exhibit "A" as the "Horizon Bank Parcel."

B. Horizon Bank has an existing 150 foot by 62 foot easement over a portion of the KPRC Parcel situated south of the existing storm runoff retention basin comprising a portion of the KPRC Parcel, for ingress and egress, described as the "New Centre Street Entrance" in that certain Basement Agreement dated August 7, 1992 between Terral R. and Jean Henderson and Kenneth Grabowski and Kathleen M. McGarry, recorded in Liber 1585, Page 622, in the Kalamazoo County Register of Deeds. Horizon Bank desires to expand its easement across the KPRC Parcel to allow ingress and egress across a portion of the KPRC Parcel on the north and east sides of the existing storm runoff retention basin. KPRC is willing to grant additional easement rights consistent with the terms and conditions set forth herein.

Terms and Conditions of Agreement

NOW, THEREFORE, in consideration of sum of Ten Dollars (\$10.00) the receipt of which is hereby acknowledged by KPRC, and in further consideration of the mutual promises made pursuant to this Agreement, the parties agree as follows:

1. Ingress/Egress Easement. KPRC hereby grants and conveys to Horizon Bank, on behalf of itself and its successors and assigns, an easement over the property legally described on

attached Exhibit "B" (the "Horizon Bank Ingress/Egress Easement Parcel") for vehicular and pedestrian ingress and egress from Centre Avenue to the Horizon Bank Parcel. For purposes of this Agreement, references to "Horizon Bank" means Horizon Bank and its successors and assigns and all current and future owners of any portion of the Horizon Bank Parcel. It is further agreed that Horizon Bank may grant the benefit of the easement rights herein to the tenants and other occupants of any portion of the Horizon Bank Parcel for the duration of such occupancy, and to their customers, contractors, laborers, employees, agents, licensees, sublessees, concessionaires and business invitees thereof; but the easement granted herein is not intended nor shall it be construed as creating any rights in or for the benefit of the general public.

2. Signage Easement. KPRC hereby grants and conveys to Horizon Bank on behalf of itself and its successors and assigns, an easement on and over the property legally described on attached Exhibit "C" (the "Horizon Bank Sign Easement Parcels") for the installation and maintenance of two directional traffic flow signs of the type and dimensions depicted in attached Exhibit "D" ("Directional Signage"). Horizon Bank shall erect and maintain, in good condition and repair at all times, the Directional Signage at its sole cost and expense, except for damage caused to such Directional Signage by KPRC or its contractors as a result of Road Maintenance (defined below). The location of the Horizon Bank Sign Easement Parcels is depicted by the highlight in attached Exhibit "E". If Horizon Bank desires to change the design of the signs in the future, then it shall obtain written approval of the same from KPRC, which approval shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, however, KPRC may require that the signage fit aesthetically with the other signage located on the KPRC Parcel and the signage in the surrounding area. References in this Agreement to the "Horizon Bank Easement Parcels" shall mean the Horizon Bank Ingress/Egress Easement Parcel and the Horizon Bank Sign Easement Parcels.

3. Cost Sharing. Horizon Bank agrees to pay four percent (4.00%) of the total cost of snow plowing, resurfacing, striping, patching and any other road maintenance (collectively referred to herein as "Road Maintenance") undertaken by KPRC in respect to the KPRC Parcel, which share shall be paid within thirty (30) days following receipt by Horizon Bank of copies of invoices for such Road Maintenance expenditures, and if a Default has occurred, as defined in Paragraph 4 herein, any unpaid sums shall accrue interest at a rate of ten percent (10%) per annum or the highest rate allowable under Michigan law, whichever is less, until paid in full. KPRC shall be obligated to pay its share of any costs when due, and shall be responsible for performing or arranging for the performance of Road Maintenance such that the Horizon Bank Ingress/Egress Easement Parcel shall remain unobstructed and in good condition and repair for the uses contemplated by this Agreement. Notwithstanding the foregoing, Horizon Bank acknowledges that the Horizon Bank Ingress/Egress Easement Parcel may be temporarily obstructed during such Road Maintenance activities.

4. Default. The occurrence of anyone or more of the following events shall constitute a material default and breach of this Agreement ("Default") by the non-performing party (the "Defaulting Party") if not cured within the notice periods described in subsections (A) or (B) below, as applicable:

A. The failure to make any payment required to be made hereunder within ten (10) days after notice from the other party ("Non-Defaulting Party"), or

B. The failure to observe or perform any other of the covenants, conditions or obligations of this Agreement or to abide by the restrictions and requirements herein provided within thirty (30) days after notice from the Non-Defaulting Party specifying the nature of the Default claimed.

5. Right to Perform Other Party's Obligations and be Reimbursed. With respect to any Default described in Section 4 above, the Non-Defaulting Party shall have the right, but not the obligation, to cure such Default after expiration of the notice periods described in subsection 2(A) or 2(B) as applicable, by the payment of money or the performance of some other action for the account of and at the expense of the Defaulting Party; provided, however, that if the Default shall constitute an emergency condition involving an immediate and imminent threat of substantial injury or harm to persons or property, then the Non-Defaulting Party, acting in good faith, shall have the right to cure such Default upon such advance notice as is reasonably possible under the circumstances or, if necessary, due to such emergency, without advance notice, so long as notice is given as soon as possible thereafter. To effectuate any such cure, the Non-Defaulting Party shall have the right and a temporary easement to enter upon the Parcel of the Defaulting Party (but not into any building) to perform any necessary work or furnish any necessary materials or services to cure the Default of the Defaulting Party. Each party shall be responsible for the non-performance or Default of its occupants and lessees. In the event any Non-Defaulting Party shall cure a Default, the Defaulting Party shall reimburse the Non-Defaulting Party for all costs and expenses incurred in connection with such curative action, plus interest at the rate of ten (10%) percent per annum, within ten (10) days of receipt of demand, together with reasonable documentation supporting the expenditures made.

6. Liens. Costs and expenses required to be paid by a party pursuant to Sections 3 or 5 above shall constitute a lien against the Defaulting Party's Parcel if not paid when due. The lien shall attach and take effect only upon recordation of a claim of lien in the applicable real estate records office of the county in which the said parcel is located by the Non-Defaulting Party. The claim of lien shall include the following:

- A. The name and address of the lien claimant;
- B. A statement concerning the basis for the claim of lien and identifying the lien claimant as a Non-Defaulting and/or curing Party;
- C. An identification by name and address (if known) of the Defaulting Party of the Parcel or interest therein against which the lien is claimed;
- D. A description of the Parcel against which the lien is claimed;
- E. A description of the work performed or sums paid which has given rise to the claim of lien;

- F. A statement itemizing the total amount due, including interest; and
- G. A statement that the lien is claimed pursuant to the provisions of this Agreement, reciting the date, book and page of recordation hereof.

The notice shall be duly acknowledged and contain a certificate that a copy thereof has been served upon the Defaulting Party, by personal service or by mailing pursuant to Section 16 below. The lien so claimed shall attach from the date of recordation solely in the amount claimed thereby and may be enforced in any judicial proceedings allowed by law, including without limitation, suit in the nature of a suit to foreclose a mortgage or construction lien under the applicable provisions of the laws of the State of Michigan. In addition, the lien may be foreclosed by advertisement pursuant to MCLA § 600.3201, et. seq., as amended. Any such lien shall be subordinate to any first mortgage lien recorded against such parcel.

7. Other Remedies. Each Non-Defaulting Party shall have the right to prosecute any proceedings at law or in equity against any Defaulting Party hereto, or any other person, violating or attempting to violate or defaulting upon any of the provisions contained in this Agreement, and to recover damages for any such violation or Default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation by another of any of the terms, covenants, or conditions of this Agreement, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) may not be adequate. All of the remedies permitted or available to an owner under this Agreement or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

8. No Waiver. No delay or omission of any party in the exercise of any right accruing upon any Default of any other party shall impair any such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such Default. No waiver by any party of any Default by the other owner/party under this Agreement shall be effective or binding on such owner unless made in writing by such party and no such waiver shall be implied from any- omission by a party to take action in respect to such Default. No express written waiver of any Default shall affect any other Default or cover any other period of time other than any Default and/or period of time specified in such express waiver. One or more written waivers or any Default under any provision of this Agreement shall not be deemed to be a waiver of any subsequent Default in the performance of the same provision or any other term or provision contained in this Agreement.

9. Non-Exclusive. The easement granted over the Horizon Bank Ingress/Egress Easement Parcel granted herein is not exclusive. Horizon Bank acknowledges that it is aware that KPRC has granted easement rights to the owner of a parcel adjoining the KPRC Parcel for ingress, egress across a portion of the Horizon Bank Ingress/Egress Easement Parcel. KPRC also reserves the right to grant additional easement rights over the Horizon Bank Ingress/Egress Easement Parcel to other individuals or entities, including, but not limited to, any utility companies, additional tenants, the City of Portage, or any other similar or dissimilar users, and to

use the Horizon Bank Ingress/Egress Easement Parcel area for its own purposes and that of its guests, tenants, customers, employees, contractors, agents, invitees, successors and assigns, provided that such use shall not unreasonably interfere with the rights granted hereunder. Horizon Bank's use of the Horizon Bank Ingress/Egress Parcel shall not materially interfere with KPRC's use of its property or the use of the Horizon Bank Ingress/Egress Parcel by other easement users. Horizon Bank further acknowledges that KPRC shall have the right to change or alter the location of the Horizon Bank Ingress/Egress Parcel, at its sole cost and expense, provided that KPRC provides an alternate route of ingress and egress over its Parcel to the Horizon Bank Parcel. KPRC agrees to confer with Horizon Bank with respect to the location of any alternate route and give good faith consideration to Horizon Bank's recommendations.

10. Responsibility for Damages Caused by the Acts of a Party. Notwithstanding the other provisions of this Agreement, any damage caused by a party (the "Liable Party") or its employees, agents, customers, guests, tenants, invitees or contractors, to the property of the other party (the "Innocent Party"), or the facilities within the Horizon Bank Easement Parcels shall promptly be repaired by the Liable Party at its sole expense. In addition, Horizon Bank agrees to indemnify, defend, and hold KPRC, and its customers, invitees, officers, agents, employees, members, and representatives, harmless from all costs, expenses, damages, claims, liabilities, and proceedings, of any nature, including all of said parties' attorneys fees and costs, that arise out of or relate to, in any way, the use of the Horizon Bank Easement Parcels by Horizon Bank and by its customers, invitees, officers, agents, employees, members, and representatives.

11. Insurance. Horizon Bank further agrees to obtain, at Horizon Bank's sole cost and expense, public liability insurance for the benefit of Horizon Bank, its employees, guests, and other users of the Horizon Bank Easement Parcels, in the sum of not less than \$1,000,000 combined single limit insurance coverage, to cover any property damage to the KPRC Parcel or any personal injuries or death that may be caused by the use of the KPRC's Parcel by Horizon Bank and its customers, invitees, officers, agents, employees, members, and representatives, up to the limits of said insurance. Horizon Bank shall keep such insurance in force during the entire term hereof, and shall deliver to KPRC, upon KPRC's request, a certificate evidencing such insurance coverage and subsequent certificates upon renewal of the policy or policies. Horizon Bank may satisfy the insurance requirements above with a policy or policies of blanket insurance; provided, however, that the amount of the total insurance allocated to this Agreement shall be sufficient so as to furnish in protection the equivalent of separate policies in the amounts herein required, and provided further that in all other respects, any such policy or policies shall comply with the other provisions of this Agreement.

12. Waiver of Subrogation. Both KPRC and Horizon Bank hereby release and discharge the other party, and the other party's customers, invitees, officers, agents, employees, members, and representatives, of and from any and all liability arising from any loss, damage, injury, or death which is actually covered by insurance policies obtained by either party related to any losses, damages, or injury which occur on either parcel. If an endorsement by the insurance company is required for the waiver of the right of recovery set forth above, then both parties shall obtain such endorsements

13. Term. The easements granted herein shall be perpetual.

14. Limits on Assignability. Except as set forth herein, all rights granted pursuant to this Agreement shall not be further assignable by a party to the Agreement or its successors except as an appurtenance to and in conjunction with the sale or transfer of all or part of the KPRC Parcel or the Horizon Bank Parcel that is owned by such party. The rights, duties, obligations, and responsibilities set forth herein shall run with the land and be binding upon the parties hereto, their permitted successors and assigns and on all future owners of the KPRC Parcel and the Horizon Bank Parcel.

15. Representation and Warranty. The persons executing this Agreement represent and warrant, on behalf of themselves and their respective entities, that each party has obtained all necessary consents and approvals and each party has all right, title and authority to execute this Agreement on behalf of their respective party, that by such execution each party is bound by the terms of this Agreement and each party has all necessary power and authority to perform the obligations, terms, conditions and covenants set forth herein.

16. Notices. All notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be in writing and shall be deemed given or delivered: (a) when personally delivered to the party to be given such notice or other communication; (b) on the business day following the date of deposit in the United States mail if such notice or other communication is sent by certified or registered mail with return receipt requested and postage thereon fully prepaid; or (c) on the business day following the day such notice or other communication is sent by reputable overnight courier, to the party to be notified at the addresses set forth in this Agreement or to such party's principal business office or registered office on file with the state under which such party is organized or such other addresses as a party may designate in writing.

17. Modification. This Agreement may be amended, modified or terminated (in whole or in part) only by the agreement of the parties hereto or their successors, in writing, and duly recorded in the public records of Kalamazoo County, Michigan.

18. Severability. The invalidity or enforceability of any part or provision of this Agreement shall not affect the validity or enforceability of any other part or provision.

19. Governing Law. This Agreement shall be governed by the laws of the State of Michigan.

In Witness Whereof, the undersigned have executed this Easement Agreement on the day and year set forth above.

KALAMAZOO PHYSICIANS REALTY
COMPANY, LLC

Date: 6/10, 2011

By: Raghu G. Elluru
Raghuram G. Elluru
Its: Manager

STATE OF MICHIGAN)
):SS
COUNTY OF Kalamazoo)

The foregoing instrument was acknowledged before me on June 10, 2011, by Raghuram G. Elluru, Manager, Kalamazoo Physicians Realty Company, LLC, a Michigan limited liability company.

David Brian Quick
David Brian Quick
Notary Public
Kalamazoo County, Michigan
My commission expires: 1/12/2013

HORIZON BANK NATIONAL
ASSOCIATION

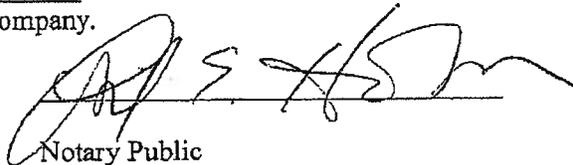
By: Dennis J. Kuhn

Printed Name: Dennis J. Kuhn

Its: Market President

STATE OF MICHIGAN)
):SS
COUNTY OF Kalamazoo

The foregoing instrument was acknowledged before me on Aug. 1ST, 2011, by Dennis J. Kuhn, the Market President of Horizon Bank National Association, a national banking association, on behalf of the company.



Notary Public

County, Michigan

My commission expires: _____

Prepared by and when recorded return to:
Attn: Rebecca Hoyt Fischer
Laderer & Fischer, P.C.
112 West Jefferson Blvd., Suite 310
South Bend, Indiana 46601
Phone (574) 284-2354

APRIL E. HOLM
Notary Public, State of Michigan
County of Kalamazoo
My Commission Expires April 8, 2014
Acting in the County of Kalamazoo

EXHIBIT "A"

KPRC PARCEL

A parcel of land situated in the Northwest quarter of Section 20, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan being more particularly described as follows: Commencing at the Northwest corner of Section 20, Town 3 South, Range 11 West; thence S. 00 deg. 33 min. 14 sec. E. 982.64 feet along the West line of the Northwest quarter of said Section; thence N. 89 deg. 55 min. 21 sec. E. 220.00 feet to the Place of Beginning; thence S. 00 deg. 04 min. 39 sec. E. 140.00 feet; thence S. 10 deg. 04 min. 39 sec. E. 141.23 feet to the Northerly right-of-way line of new Centre Street; thence Northeasterly 399.50 feet along the arc of a curve to the left having a radius of 1382.39 feet and a chord N. 71 deg. 49 min. 48 sec. E. 398.12 feet; thence N. 00 deg. 29 min. 07 sec. W. 154.49 feet to a point S. 00 deg. 33 min. 14 sec. E. 983.13 feet parallel with said West line from the North line of said Northwest quarter; thence N. 89 deg. 57 min. 57 sec. E. 0.75 feet parallel with said North line to the West line of the East 40 feet of the West half of the Northwest quarter of the said Northwest quarter; thence N. 00 deg. 31 min. 42 sec. W. 150.36 feet along said West line of the East 40 feet; thence S. 89 deg. 57 min. 57 sec. W. 306.16 feet parallel with said North line; thence S. 00 deg. 00 min. 09 sec. W. 149.62 feet to a line extending N. 89 deg. 55 min. 21 sec. E. from the Place of Beginning; thence S. 89 deg. 55 min. 21 sec. W. 95.08 feet to the Place of Beginning.

HORIZON BANK PARCEL

Part of the Northwest Quarter of Section 20, Town 3 South, Range 11 West, City of Portage, Michigan, more particularly described as follows: Commencing at the Northwest corner of Section 20, Town 3 South, Range 11 West; thence South 00 degrees 33 minutes 14 seconds East 982.64 feet along the West line of said Section 20 for the Place of Beginning; thence North 89 degrees 55 minutes 21 seconds East 220.00 feet; thence South 00 degrees 04 minutes 39 seconds East 140.00 feet; thence South 10 degrees 04 minutes 39 seconds East 141.23 feet to the Northerly right-of-way line of New Centre Street; thence 210.19 feet along the arc of a curve to the right and the Northerly right-of-way line of New Centre Street, whose radius is 1382.39 feet, central angle of 08 degrees 42 minutes 43 seconds and chord bearing South 84 degrees 27 minutes 54 seconds West 209.99 feet; thence Westerly 33 feet to the West line of said Section 20; thence North 00 degrees 33 minutes 14 seconds West 299.07 feet to the Place of Beginning.

Excepting therefrom:

A triangular parcel of land situated in the Northwest Quarter of Section 20, Town 3 South, Range 11 West, City of Portage, Michigan, more particularly described as: Commencing at the Northwest corner of said Section 20; thence South 00°33'14" East on the West line of said Section 20, a distance of 1281.71 feet; thence East 33 feet to the point of beginning of the land hereinafter described; thence North 00°33'14" West parallel with the West line of said Section 20, a distance of 20 feet; thence South 46°04'26" East 28.03 feet to the northerly right-of-way line of New Centre Street; thence Westerly 20.00 feet on a 1382.29 foot radius curve to the right whose chord bears South 88°24'33" West 20.00 feet to the point of beginning.

EXHIBIT "B"

HORIZON BANK INGRESS/EGRESS EASEMENT PARCEL

THAT PART OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 20; THENCE SOUTH 00° 33' 14" EAST ON THE WEST LINE OF SAID SECTION 20 A DISTANCE OF 1009.34 FEET; THENCE NORTH 88° 55' 36" EAST 219.86 FEET TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED; THENCE NORTH 88° 03' 42" EAST 164.24 FEET; THENCE SOUTH 00° 03' 12" WEST 154.82 FEET; THENCE SOUTH 21° 01' 47" WEST 12.84 FEET; THENCE SOUTH 10° 09' 32" EAST 62.35 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF WEST CENTRE AVENUE; THENCE SOUTHWESTERLY 52.22 FEET ON SAID NORTHERLY RIGHT OF WAY LINE AND ON A 1382.39 FOOT RADIUS CURVE TO THE RIGHT WHOSE CHORD BEARS SOUTH 74° 59' 55" WEST 52.22 FEET; THENCE NORTH 13° 55' 09" WEST 62.00 FEET; THENCE NORTH 75° 41' 15" EAST 18.13 FEET; THENCE NORTH 38° 37' 19" EAST 25.65 FEET; THENCE NORTH 00° 12' 21" WEST 123.84 FEET; THENCE NORTH 45° 07' 06" WEST 6.60 FEET; THENCE SOUTH 89° 45' 22" WEST 72.35 FEET; THENCE SOUTH 85° 19' 46" WEST 61.50 FEET; THENCE NORTH 00° 19' 12" EAST 28.25 FEET TO THE POINT OF BEGINNING, CONTAINING 11,490 SQUARE FEET MORE OR LESS

EXHIBIT "C"

HORIZON BANK SIGN EASEMENT PARCELS

DIRECTIONAL SIGN EASEMENT PARCEL #2:

THAT PART OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 20; THENCE SOUTH 00° 33' 14" EAST ON THE WEST LINE OF SAID SECTION 20 A DISTANCE OF 995.70 FEET; THENCE NORTH 89° 26' 46" EAST PERPENDICULAR TO SAID WEST SECTION LINE 349.76 FEET TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED; THENCE EAST 6.00 FEET; THENCE SOUTH 5.00 FEET; THENCE WEST 6.00 FEET; THENCE NORTH 5.00 FEET TO THE POINT OF BEGINNING. CONTAINING 30 SQUARE FEET.

DIRECTIONAL SIGN EASEMENT PARCEL #3:

THAT PART OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 20; THENCE SOUTH 00° 33' 14" EAST ON THE WEST LINE OF SAID SECTION 20 A DISTANCE OF 1174.33 FEET; THENCE NORTH 89° 26' 46" EAST PERPENDICULAR TO SAID WEST SECTION LINE 325.78 FEET TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED; THENCE NORTH 76° 27' 46" EAST 6.00 FEET; THENCE SOUTH 13° 32' 14" EAST 5.00 FEET; THENCE SOUTH 76° 27' 46" WEST 6.00 FEET; THENCE NORTH 13° 32' 14" WEST 5.00 FEET TO THE POINT OF BEGINNING. CONTAINING 30 SQUARE FEET.

EXHIBIT "D"

TYPE AND DIMENSIONS OF DIRECTIONAL SIGNAGE

SIGN 1

Front View 1" = 1" Side View 1" = 1"

PROPOSED

HORIZON BANK
→ Drive-Up
↑ Customer Parking

SIGN 2

Front View 1" = 1"

PROPOSED

HORIZON BANK
→ Entrance

DESIGN NOTES:

- ▶ TWO (2) NON-ILLUMINATED POST AND PANEL SIGNS WITH VINYL COPY & GRAPHICS TO REPLACE EXISTING DIRECTIONALS
- PANEL BKGD & 3" RETURNS = MAP PMS 350 DK GREEN
- HORIZON BANK/ COPY & ARROWS = WHITE VINYL
- LOGO GRAPHICS = 220-229 METALLIC COPPER VINYL
- REVEALS = MAP PMS 876 METALLIC COPPER
- POLE COVER = MAP BLACK

Designed for 110 volts
Electrical connection will be via the INCOMER 5 PC. in terms of installation, second type will be charged at Time & Material



741
7424 Industrial Avenue
Chattanooga, TN 37404
phone: 214.763.8877
fax: 214.763.8288

SO-9975-2 PRINT #	EMMAUN F. BERDEN 200 SALES REP.
HORIZON BANK	2250 CENTRE ST, PORTAGE, MS
CLIENT NAME	JOB LOCATION
DATE	JMK DRAWN BY
	1" = 1'-0" SCALE

REVISIONS	1. REVISED COPY 04/21/11
<input checked="" type="checkbox"/>	CLIENT ACCEPTANCE SIGNATURE _____ DATE _____
<input checked="" type="checkbox"/>	IF REQUIRED, LEASOR'S ACCEPTANCE SIGNATURE _____ DATE _____
<input type="checkbox"/>	LEASOR'S ACCEPTANCE SIGNATURE _____ DATE _____

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TO: Zoning Board of Appeals **DATE:** December 2, 2011
FROM: Vicki Georgeau, ^WDirector of Community Development
SUBJECT: ZBA #11-12; Horizon Bank, N.A., 3250 West Centre Avenue; OS-1, Office Service
CODE SECTION: 42-550(A), OS-1, Office Service Signs; p. CD42:130.1

APPEAL: Requesting a) a variance to permit two non-accessory (off-premise) directional signs on 3200 West Centre Avenue; and b) a 34 square-foot variance to permit an 84 square-foot freestanding sign where a maximum 50 square-foot sign is permitted.

STAFF RECOMMENDATION:

The applicant requests the above variances per the enclosed application, site and sign sketches, and related materials. The 1.3 acre property was recently purchased by the applicant and work is currently underway to convert the upper level to a bank use. The property is zoned OS-1, Office Service and is adjacent to developed office uses.

The corner parcel has vehicular access to Cooley Drive and West Centre Avenue through a shared driveway arrangement with the adjacent property at 3200 West Centre Avenue. The applicant proposes to place two non-accessory (off-premises) directional signs on 3200 West Centre Avenue to identify the bank entrance and drive-through facility. The applicant has a sign easement to locate the proposed directional signs, shown as signs 3 and 4 on the site sketch. The applicant also proposes to remove the existing freestanding sign and erect a new freestanding sign near the southwest corner of the property. The new sign would have two 42 square-foot panels, the upper panel identifying Horizon Bank and the lower an electronic message display.

Concerning request a) as a result of the shared driveway arrangement with 3200 West Centre Avenue, Horizon Bank does not have direct access to West Centre Avenue: The centerline of the West Centre Avenue driveway is located approximately 120 feet east of the Horizon Bank east property line. Since Horizon Bank does not have direct West Centre Avenue access, the proposed directional signs will improve way-finding for customers. The proposed size (less than four square feet in area) and placement of the two non-accessory (off-premise) signs will not negatively affect neighboring properties and is consistent with the spirit and intent of the Zoning Ordinance; the variance is therefore recommended.

Concerning request b), the building is situated at a lower elevation than the adjacent street grade and several mature trees on 3200 West Centre Avenue contribute to reduced site and sign visibility for westbound traffic. It is acknowledged that the view of the proposed freestanding sign for westbound traffic is partially obstructed due to the presence of the vegetation. However, a larger 84 square-foot sign is unlikely to have more visibility for westbound traffic than a conforming 50 square-foot sign. Alternatives to the requested variance include removal or trimming of the vegetation on 3200 West Centre Avenue, or placement of the sign closer to the road. These options have been discussed with the applicant. Unfortunately, the property owner of 3200 West Centre Avenue is unwilling to remove or trim back existing trees. Further, the applicant does not want to pursue a sign setback variance instead of a sign area variance at this time. If the Board, however, finds a practical difficulty exists, the requested sign area variance may be approved.

PRACTICAL DIFFICULTY:

Request a) Directional signs facilitate West Centre Avenue shared access and wayfinding; Request b) Applicant notes mature trees and site topography. 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.**