

CITY OF
PORTAGE

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ZONING BOARD OF APPEALS

January 9, 2012

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, January 9, 2012

(7:00 pm)

Portage City Hall

Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * December 12, 2011

NEW BUSINESS:

- * ZBA# 11-14, 8818 Portage Road: Darrell Greathouse, requesting a variance to allow operation of a veterinary hospital adjacent to property zoned R-1B, One Family Residential.

STATEMENT OF CITIZENS:

ADJOURNMENT:

Materials Transmitted

Star (*) indicates printed material within the agenda packet

Minutes of Meeting – December 12, 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. Five people were in the audience.

MEMBERS PRESENT: Mariana Singer, Daniel Douglas Rhodus, Timothy Bunch, Betty Schimmel, Rob Linenger, David Felicijan, and Jeffrey Bright.

MEMBERS EXCUSED: Lowell Seyburn

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

APPROVAL OF THE MINUTES: Felicijan moved and Singer seconded a motion to approve the November 14, 2011 minutes with one correction. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA #11-12, 3250 West Centre Avenue. Staff summarized the request for 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. Tom King, was present on behalf of the applicant. Mr. King stated that concerning the freestanding sign request, the variance should be granted because the property is unique along West Centre Avenue, as the site is several feet below the adjacent street grade which makes it difficult to see and that trees block visibility for west bound traffic. Mr. King added the request also represented a reduction in the degree of nonconformity, as the existing freestanding sign measured 140 square feet in area when the masonry support structure was taken into account. Mr. King said he differed with staff on two points: the applicant felt a larger sign would improve readability for westbound traffic, and secondly felt that moving the sign closer to the road would not improve sign visibility. Linenger inquired if the applicant had considered reducing the size of one or both freestanding sign panels. Mr. King responded corporate wanted each branch to have uniform signage, and that a different sized sign would have to be custom made. Felicijan stated he struggled with a practical difficulty and did not think that even a 100 square foot sign would be more readable as long as the obstructing trees remained. Singer stated she did not see why the applicant could not have a conforming sign, as the previous occupant, Prudential, had one and were readily identifiable. Bunch requested clarification whether the old sign was in fact larger than the proposed sign. Staff stated the code exempted the support structure from the sign area calculations, and while the old sign had a larger support structure the sign itself was smaller than the proposed sign. Rhodus inquired if a traffic light was going to be installed at the intersection of Cooley and West Centre. Staff responded they did not know. Rhodus inquired if the applicant was going to have multiple tenants. Mr. King said possibly.

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 Singer, supported by Schimmel to grant a) a variance to permit two non-accessory (off-premise) directional signs on 3200 West Centre Avenue 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 no direct access to West Centre Avenue; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify the bank at the West Centre Avenue access; the immediate 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 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, Bunch-Yes, Rhodus-Yes, Bright-Yes, Felicijan-Yes. The motion carried 7-0.

A motion was made by Felicijan, supported by Bunch, to deny b) a 34 square-foot variance to permit an 84 square-foot freestanding sign where a maximum 50 square-foot sign is permitted, 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 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, because there are conforming alternatives available such as erecting a conforming sign and removing the vegetation or seeking a setback variance; the immediate practical difficulty causing the need for the variance request was created by the applicant; the variance would 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, Bunch-Yes, Rhodus-Yes, Bright-No, Felicijan-Yes. The motion carried 6-1.

ZBA #11-13, 6295 and 6355 South Westnedge Avenue. Staff summarized the request for 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. Edward Wade stated Dick’s Sporting Goods would be occupying the southern portion of the building at 6355 South Westnedge and the new tenant needed their own loading dock which is proposed on the east (back) side of the building. Mr. Wade stated they were mindful of the neighboring apartment complex to the east and proposed to place screening vegetation along the east property line in addition to entirely enclosing the proposed loading dock. Linenger inquired if they had considered placing the loading dock on the south side of the building. Mr. Wade stated that because they were redesigning the entire site in compliance with current code and adding landscaping islands they had to move additional parking to the south. Felicijan inquired what kind of screening vegetation was proposed. Mr. Wade stated another architecture firm is handling the landscape design and he did not know the specifics.

A public hearing was opened. A letter from Edward Rose and Sons, 6101 Newport Road was read. The public hearing was closed.

A motion was made by Felicijan, seconded by Singer to grant 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, conditioned upon conflicting land use screening being installed along the east property line, for the following reasons: the variance is necessary for the preservation and enjoyment of a substantial property right, the right to multiple tenants, which is similar to that possessed by other properties in the same zoning district and vicinity; 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

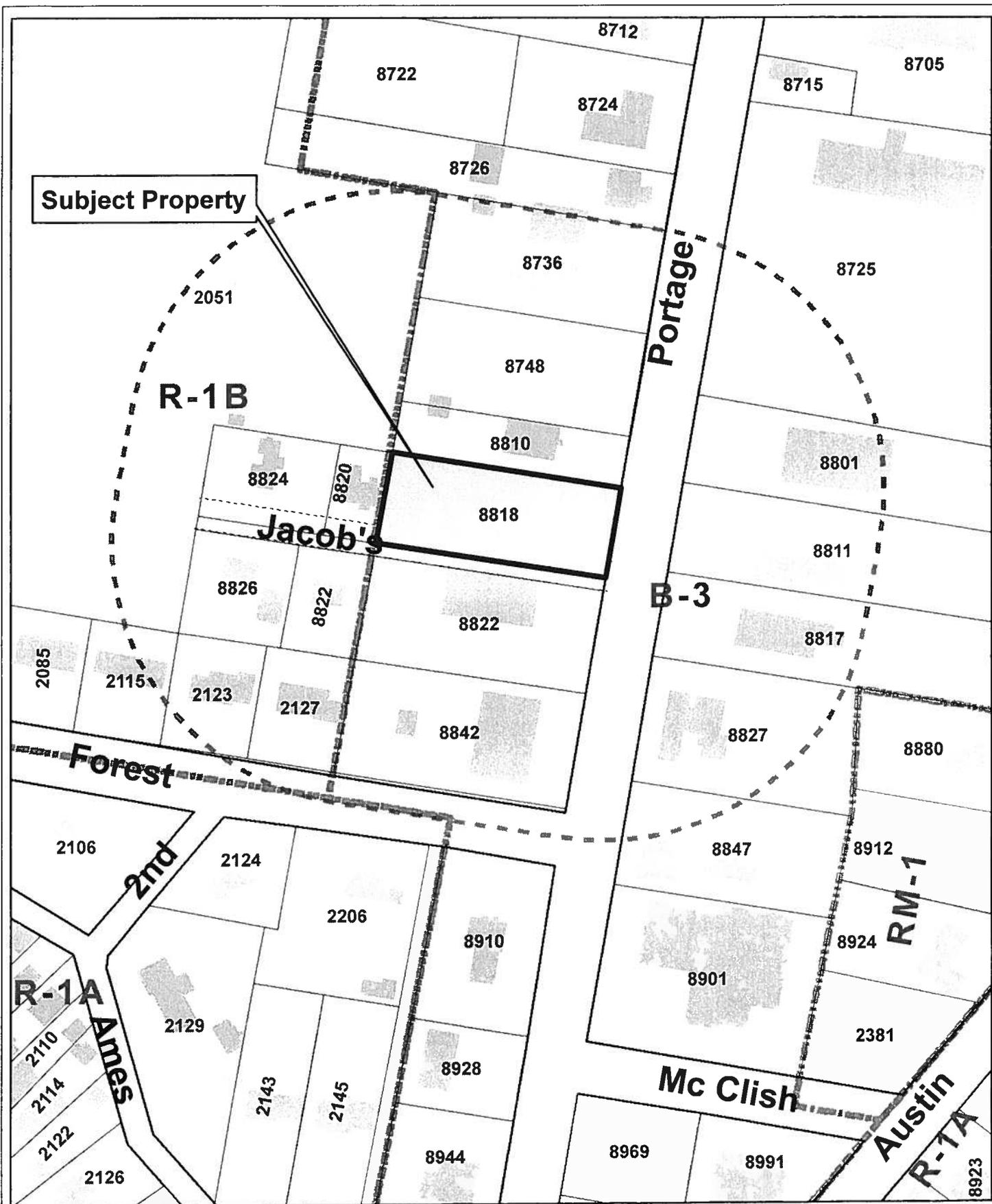
Board, and that action of the Board shall be final and effective immediately. Upon roll call vote: Bunch-Yes, Rhodus-Yes, Schimmel-Yes, Felicijan-Yes, Linenger-Yes, Singer-Yes, Bright-Yes, the motion carried 7-0.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 7:55 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



Subject Property

R-1B

Jacob's

Portage

B-3

Forest

2nd

R-1A

Ames

Mc Clish

RM-1

Austin



1 inch = 150 feet

ZBA 11-14
8818 Portage Road

Legend



300' Notification Boundary

Subject Properties

Zoning Boundary

RECEIVED

DEC 07 2011

11-10000014

COMMUNITY DEVELOPMENT
Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 11-30-11
 Name of Applicant Darrell Greathouse Darrell Greathouse
Print Signature
 Applicant's Address 2554 Portside Phone No. 269-324-5762
(w) 323-3434
 Name of Property Owner (if different from Applicant) Chuck Minor
 Address 8643 South 6th, Kal, 49009 Phone No. _____
 Address of the Property that is the subject of this Application:
 Street Address 8818 Portage Rd
 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: Purchase

Application Fee _____ (Residential Uses) Commercial (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 42-262 Paragraph B
 Regarding: Use Veterinary Area _____ Yards _____
 Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): would like to connect property to veterinary hospital

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>11-14</u>	Filing Date: <u>12/7/11</u>	Tentative Hearing Date: <u>1/9/12</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 letter

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

To the Zoning Board of Appeals

Thank you for taking the time to read this appeal. As noted in the application, I would like to have the building in question, approved for remodeling as a veterinary hospital. The very rear of the property is adjacent to residential property rather than property zoned commercial.

My intention would be to remodel 2/3 of the existing building for use as a veterinary hospital and move my existing business from 10336 Portage Rd. into this facility. The other 1/3 would then be available for commercial lease.

I do not feel that this would impact the residential experience for several reasons.

1) This would not be a kennel. The only patients staying the night would be the occasional hospitalized patient. This is relatively uncommon event in our current hospital, and is reserved for only the sickest of patients. Due to liability concerns of having unattended hospitalized patients we recommend referral to the 24 hour facility in downtown Kalamazoo or send most patients home for the night.

2) There would not be any outside runs or kennels. While we do take hospitalized dogs for short walks, they are leashed and are for elimination purposes only. The large grassy area behind the hospital could be used for that purpose. This is not a frequent occurrence.

3) The traffic flow of 30 to 40 people on weekdays and only 15 people on Saturday mornings with no Sunday or evening hours would actually DECREASE the traffic flow for the property. (at it's peak, there were 1600 cars per day going in and out of the Movie Stars business).

4) Unlike veterinary practices of the 60's and 70's, this is an exclusive small animal practice-there are no cattle, horses or pigs being hauled in for treatment. We do not have a crematorium or outdoor kennels and as stated above, we rarely even hospitalize patients overnight. There is minimal noise or odor associated with a veterinary hospital. With the 24 hour emergency hospital in downtown Kalamazoo, we almost never even see an emergency so after hours and weekend traffic is very low.

In summary, I think that a veterinary hospital would be a very good neighbor to have and certainly would prefer it over many of the retail alternatives that could be placed in this building without changes to the zoning. I appreciate your consideration in this request.

Thank you,


Darrell Greathouse, DVM

12/01/2011

City of Portage
7900 South Westnedge
Portage, Michigan 49024

RECEIVED

DEC 07 2011

COMMUNITY DEVELOPMENT

Attn: Mr. Jeff Mais
Zoning Board of Appeals

I Charles J. Minor the present owner of the commercial property at 8818 Portage Road give my permission for Darryl Greathouse to proceed with his request for a special use Variance for the property listed above.

Thank you
Charles J. Minor, Owner

Charles J. Minor



Subject Property



1 inch = 100 feet

Aerial Photo 8818 Portage Road

Legend

 Subject Property

TO: Zoning Board of Appeals **DATE:** December 30, 2011
FROM: Vicki Georgeau, ^{VG} Director of Community Development
SUBJECT: ZBA #11-14; Darrell Greathouse, 8818 Portage Road; B-3, General Business
CODE SECTION: 42-262(C)(3)(a); Special Land Uses, p. CD42:75
APPEAL: Requesting a variance to allow operation of a veterinary hospital adjacent to property zoned R-1B, One Family Residential.

**STAFF RECOM-
MENDATION:**

The applicant requests the above variance per the enclosed application and letter of explanation. The 0.64 acre property is improved with a 3,750 square-foot commercial building and off-street parking lot constructed in 1990. The property is zoned B-3, community business. The property to north, south and east across Portage Road is also zoned B-3 and occupied by commercial uses. To the west the property is zoned R-1B, one-family residential and occupied by four, one-family dwellings. Access to the four dwellings is provided from Portage Road via a private drive (Jacob's Court).

The applicant currently operates Lakeview Animal Hospital at 10336 Portage Road and proposes to relocate. Veterinary hospitals and clinics are permitted in the B-3 district subject to review and approval of a special land use permit. Two conditions must be fulfilled: The site must be located so that all adjacent property is zoned B-1, B-2, B-3, OS-1, I-1, or I-2 district and all activities must be conducted in a completely enclosed main building. Since the abutting property to the east (8820 Jacob's Court) is zoned R-1B, a variance is needed. The applicant will comply with the second condition.

Veterinary hospitals and clinics have been permitted in the B-3 district subject to review and approval of a special land use permit (with the same conditions) since the initial adoption of the Zoning Code in 1965. Locating veterinarian hospitals/clinics adjacent to non-residential properties is intended to minimize potential negative impacts on neighborhoods. According to the applicant, changes in the treatment of animals and the operation veterinary hospitals/clinics since the 1960's have occurred. Most urban practices treat only small animals (domesticated pets), do not have crematory facilities, and have minimal patient stays due to advancements in treatment.

With specific regard to this application, only small animals are treated, patients would be boarded overnight only when necessary due to the medical condition/treatment, and there would be no outdoor kennels/runs. The hours of operation are from 7:30 a.m. to 6:00 p.m. on weekdays, and 8:00 a.m. to noon on Saturdays. Approximately 30-40 clients visit the practice on weekdays, with approximately 15 clients on Saturday mornings. The proposed use will not be more intensive than a dog grooming business which is permitted within the B-3 district without special conditions. In addition, the location of the existing building is approximately 140 feet from the nearest dwelling to the west, and a six foot privacy fence is located

along the west property line. Based on the above, the requested variance is not anticipated to be detrimental to the adjacent property and neighborhood, and will not materially impair the intent of the Zoning Code. If the Board finds a practical difficulty exists, the following conditions of approval are recommended:

- A six-foot privacy fence along the west property line be maintained to protect adjacent residential properties;
- No outdoor kennels or runs are provided on site;
- The hospital/clinic be limited to the treatment of small animals (i.e. domesticated pets);
- No animal crematory facilities shall be provided on site

**PRACTICAL
DIFFICULTY:**

Operational characteristics of the proposed small-scale veterinary hospital/clinic noted by the applicant, location of existing building from adjacent residential 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.**