

CITY OF
PORTAGE
A Place for Opportunities to Grow

ZONING BOARD OF APPEALS

March 12, 2012

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, March 12, 2012

(7:00 pm)

Portage City Hall

Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * February 13, 2012

NEW BUSINESS:

- * ZBA# 11-16, Adams Outdoor Advertising, 5602 Lovers Lane, is requesting a variance for: a) a 672 square-foot non-accessory Electronic Message Display sign that exceeds the maximum allowed 300 square-foot sign area; b) a 99 foot variance to erect a sign two feet from the (north) property line where a minimum 101 foot setback is required; and c) a 43-foot variance to erect a sign seven feet from the (east) property line where a minimum 50 foot setback is required.
 - Request to table until the April 9, 2012 meeting
- * ZBA# 11-17, Image One Industries, on behalf of EBL-S, Dick's Sporting Goods, and Esan LLC & Hareff LLC, 6295 and 6355 South Westnedge Avenue: requesting an 86 foot variance to allow 336 square feet of wall signage where a maximum 250 square feet is permitted.
 - Request to withdraw

STATEMENT OF CITIZENS:

ADJOURNMENT:

Materials Transmitted

Star (*) indicates printed material within the agenda packet

CITY OF PORTAGE ZONING BOARD OF APPEALS

DRAFT

Minutes of Meeting – February 13, 2012

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. Approximately four people were in the audience.

MEMBERS PRESENT: Mariana Singer, Doug Rhodus, Timothy Bunch, Betty Schimmel, Rob Linenger, Lowell Seyburn, Glenn Smith, and Jeffrey Bright.

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

APPROVAL OF THE MINUTES: Schimmel moved and Bunch seconded a motion to approve the January 9, 2012 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA #11-15, 7141 South Westnedge Avenue: Staff summarized the request for a variance to allow moving messages and images on an Electronic Message Display (EMD). Lowell Seyburn abstained due to a conflict of interest. Beth Reinholt stated she disagreed with staff's position that mounting the EMD to the freestanding sign structure was a conforming alternative and that the EMD was intentionally placed on the wall instead of the freestanding sign because some trees on the adjacent properties block the view of their freestanding sign. Staff stated they experienced no difficulty seeing the freestanding sign. Ms. Reinholt stated visibility is more problematic during the months when leaves are out and felt that asking for a variance for moving images on their EMD was a lesser variance than asking to remove their neighbor's trees. Ms. Reinholt stated their unique circumstances also included the low traffic counts in front of their business and the number of vacant properties in the immediate vicinity, such as the old PCOC building and the property south of Culvers. Staff responded the circumstances were not unique; that businesses in other areas with much lower traffic counts than the applicant's property successfully operate and that businesses coming and going frequently occur in commercial areas. Staff stated that both examples of vacant properties cited by applicant were either already recently approved for redevelopment or pending sale. Bright stated he thought the city should try to help businesses any way they could and inquired if the applicant thought signs with moving images endangered safety. The applicant stated they had observed no accidents in front of their property during the short time their EMD has displayed moving images. Staff explained sign legibility and stated a moving image that required an observer's attention for a four second long video posed a greater potential safety issue than a static image displayed for the same interval. The applicant noted that some schools in the area had moving images on their EMD's and must therefore think them safe. Linenger noted schools were not subject to the Zoning Code. Linenger inquired if the applicant had tried displaying static images for four seconds. Ms. Reinholt said no. Singer stated she never noticed the sign on the wall either with or without the moving images.

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 Rhodus, to deny a variance to allow moving messages and images on an EMD sign, as the immediate practical difficulty causing the need for the variance request was created by the applicant; and the variance would materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this

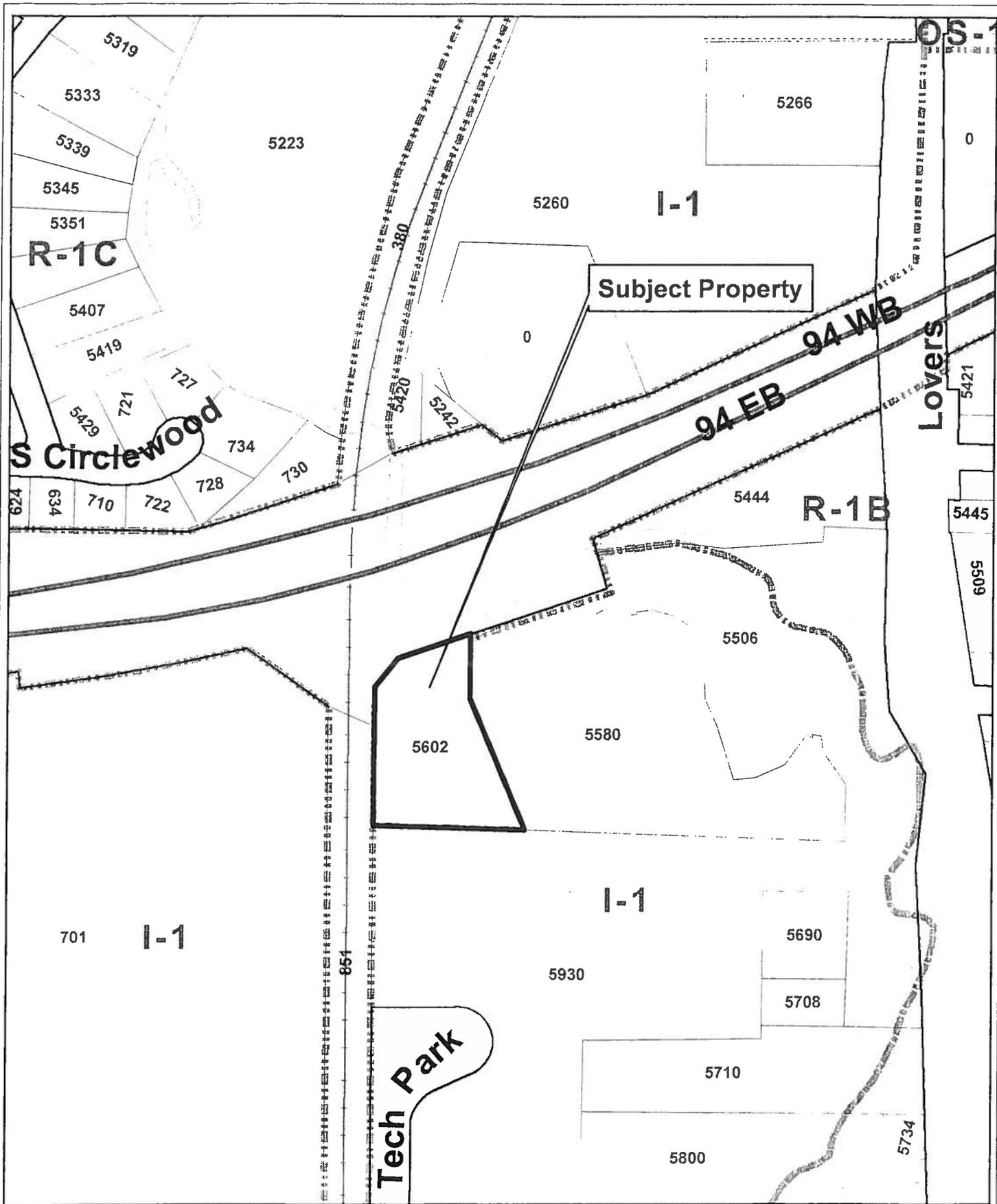
hearing and the findings of the Board, and that the action of the Board be final and effective immediately. Upon roll call vote: Schimmel–Yes, Singer–Yes, Linenger–Yes, Bunch–Yes, Rhodus–Yes, Bright–No, Smith–No. The motion carried 5-2.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 7:59 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



1 inch = 300 feet

ZBA 11-16

5602 Lovers Lane

Legend



ZBA11-16
Zoning Boundary

Jeff Mais - 5602 Lover's Lane - Billboard Variance (Adams Outdoor)

From: Kevin Green <kgreen@adamsoutdoor.com>
To: "'maisj@portagemi.gov'" <maisj@portagemi.gov>
Date: 2/29/2012 4:33 PM
Subject: 5602 Lover's Lane - Billboard Variance (Adams Outdoor)
CC: Jeannine Dodson <jdodson@adamsoutdoor.com>, Kevin Green <kgreen@adamsout...

Dear Jeff,

Adams Outdoor requests the zoning board hearing scheduled for March 12 be tabled until the zoning board hearing in April. Thank you much for your consideration and accommodation. I will call you soon with an update on the application.

Respectfully,

Kevin Green

Kevin J. Green
Real Estate Manager
Adams Outdoor Advertising
kgreen@adamsoutdoor.com

(work) 269-342-9831
(cell) 616-745-5277
(fax) 269-342-5774

407 E. Ransom Street
Kalamazoo, MI 49007

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 2/3/12
 Name of Applicant Adams Outdoor Advertising
 Applicant's Address 407 E. Ransom Street Print
 Signature Kevin J. Green
 Phone No. 269-342-9831
 Name of Property Owner (if different from Applicant) Adams Outdoor owns an easement
 Address _____ Phone No. _____

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

Street Address 5602 Lovers Lane (5600 Lovers Lane)

For Platted Property: Lot _____ of _____ Plat _____

[If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.]

Applicant's interest in Property that is the subject of this Application: Adams Outdoor own a 672 sq ft billboard and perpetual easement

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

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

Variance from Zoning Ordinance: Article _____ Section _____ Paragraph _____
 Regarding: Use _____ Area 672 sq ft Yards _____
 Setbacks 2' Parking _____ Other _____

Reason for Request (Also complete page 2 of application): Billboard sits back 354' from oncoming traffic, MDOT recently constructed sound barrier that blocks sign.

Appeal of Administrative Decision: Article _____ Section _____ Paragraph _____

Reason for Request: _____

Interpretation of the Zoning Ordinance: Article _____ Section _____ Paragraph _____

Reason for Request: _____

A Temporary Permit for: Building _____ Use _____ Other Approval _____

Reason for Request: See attached letter & summary of request

FOR STAFF USE

Application Number: <u>11-16</u>	Filing Date: <u>2/16/2012</u>	Tentative Hearing Date: <u>3/12/2012</u>
Previous Application Filed Regarding This Property: <u>None</u>		

RECEIVED

FEB 16 2012

**SUMMARY OF REQUEST
5602 Lovers Lane - Adams Outdoor Advertising**

COMMUNITY DEVELOPMENT

- I. Rebuild a standard 14' x 48' Billboard located at I-94 & 5600 Lovers Lane with a digital/electronic sign of the same size (672 sq. ft.)
- II. Applicant would like to remove the west facing billboard sign and rebuild the structure and east facing billboard face to an electronic sign. Variances requested – size 14' x 48' (672 sq. ft. - size variance of 372 sq. ft.) and 2' setback next to R.O.W. line (front-setback variance of 48'). A height variance is not need for it meets the City of Portage specifications of being less than 40' above the grade of the freeway. See attachment.
- III. A sound barrier built by MDOT has completely blocked the west face and we would like to update the technology of the east face.

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.**

MDOT has built a sound wall that interferes with the billboard. We are requesting a setback and size variance due to the east face of the billboard being over 350' from the westbound traffic. Adams is requesting to keep the billboard face the same size as the existing face so oncoming traffic can read the billboard legibly. A 14' x 48' bulletin is also the standard sign face along freeways in the billboard industry. The vast majority of billboards along the freeways in Michigan and across the country are 672 sq. ft. 14' x 48' bulletin signs are used for aesthetics, consistence and standardization of the billboard industry. The irregular shape and topography (distance and height) would make it difficult to build a billboard of smaller size or comply with the 50' setback. Please see attached photos of proposed sign. (Artist rendering)

- 2. **Are the physical characteristics you explained above unique and not shared by neighboring properties**

The sound wall has led to exceptional circumstances of having to rebuild the sign to see at least one of the sign faces. The physical characteristics are unique in that other neighboring properties do not have a billboard.

- 3. **Can the property be reasonably used for the uses permitted in the zoning district without granting the variance?**

No, a variance is necessary of the preservation of this use. The City of Portage retained part of the property on Lover's Lane for Portage Creek Bicentennial Trail and Adams Outdoor secured an easement specifically for this billboard in 2005. The billboard is located in an industrial zone (I-1 light industrial) that allows billboards / non-accessory sign. The billboard will not be able to be reasonably seen from

cross-read traffic going westbound, if we construct a smaller size sign or longer front-yard setback from the R.O.W. The closest distance of oncoming traffic is over 350' (354') from the sign.

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

Yes, the dimension variances of size and setback are necessary to be able to see the billboard from oncoming traffic. The practical difficulty was not created by Adams Outdoor Advertising (was created by MDOT) and we wish to continue the existing use (billboards/off-premise signage).

- 5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area.**

The variance would not result in adverse affects, as Adams Outdoor is not adding, but rather taking down a sign face of the billboard. The variance will not be detrimental to any adjacent property owners which are all zoned I-1 light industrial.

- 6. Explain how the variance would not result in increase 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.**

Billboard or non-accessory signs are intended to be constructed along major highways such as I-94. The zoning (I-1) at this location allows for billboards in this area. The billboard will not increase traffic congestion, noise or other potential concerns that would be detrimental to the area.

- 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?**

The hardship was not created by Adams Outdoor Advertising. MDOT has built a sound wall.

- 8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance.**

The variance is consistent with the intended use / purpose of this property. The property is zoned I-1 which allows for billboards.

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FEB 16 2012

COMMUNITY DEVELOPMENT

February 16, 2012

**City of Portage
Zoning Board of Appeals
7900 South Westnedge Avenue
Portage, MI 49002**

Re: Zoning board application to continue the use and dimensions of an existing 14' x 48' billboard sign (672 sq. ft.) on I-94 west of Lovers Lane, south side of the freeway.

Dear members of the zoning board of appeals:

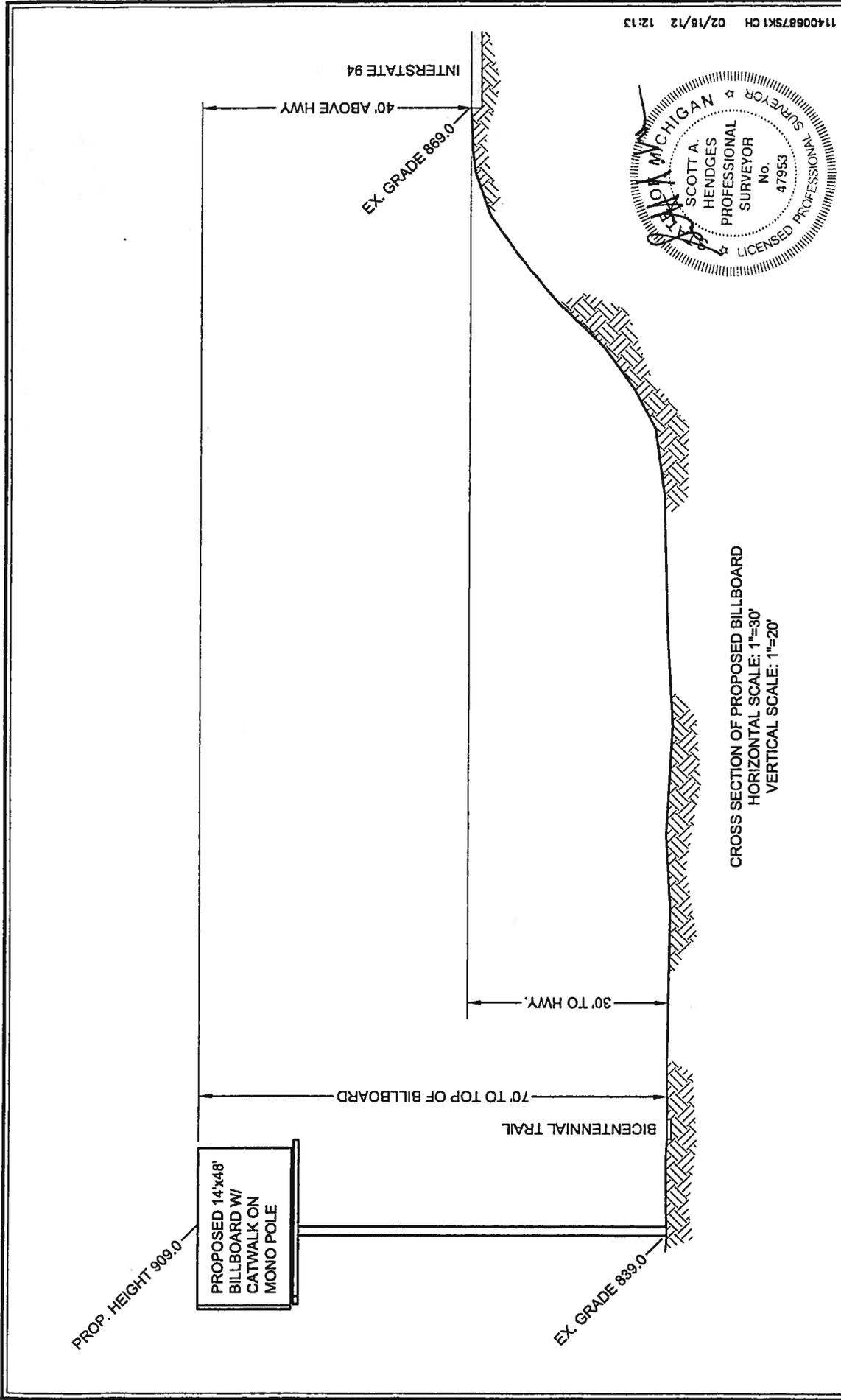
Adams Outdoor is requesting a dimension variance to maintain the existing size and setback of our billboard sign on I-94 west of Lovers Lane. The City of Portage allows for a 300 sq. ft. sign with a 50' setback. We are proposing removing the west sign face (for traffic going eastbound) of the existing billboard and rebuilding a single face electronic billboard for of the same size (672 Sq. ft.) as the existing sign for traffic going westbound. We are requesting a setback of 2' (a 48' setback variance) for the same reasons. The setback of 2' would actually be slightly further back than the existing sign.

The variance of size and setback are needed for proper visibility of the sign due to the distance of westbound traffic being over 350' (354') from the billboard. The billboard is a 14' x 48' bulletin which is the standard size for signs along the freeways and meets all the state and Michigan Department of Transportation requirements. MDOT recently constructed a sound wall just west of the billboard, which blocks the billboard from being seen traveling eastbound. We would like to continue the use and size of the east face and reduce the non-conformity of the billboard structure by removing 672 sq. ft. of the west face.

Attached is a summary of request and reasons for the variance. Thank you very much for your time and consideration.

Respectfully,

**Kevin J. Green
Real Estate Manager
Adams Outdoor Advertising**



11400687SK1 CH 02/16/12 12:13

SCOTT A. HENDGES
PROFESSIONAL SURVEYOR
No. 47953
LICENSED PROFESSIONAL SURVEYOR
MICHIGAN

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PHONE: 312.878.3897

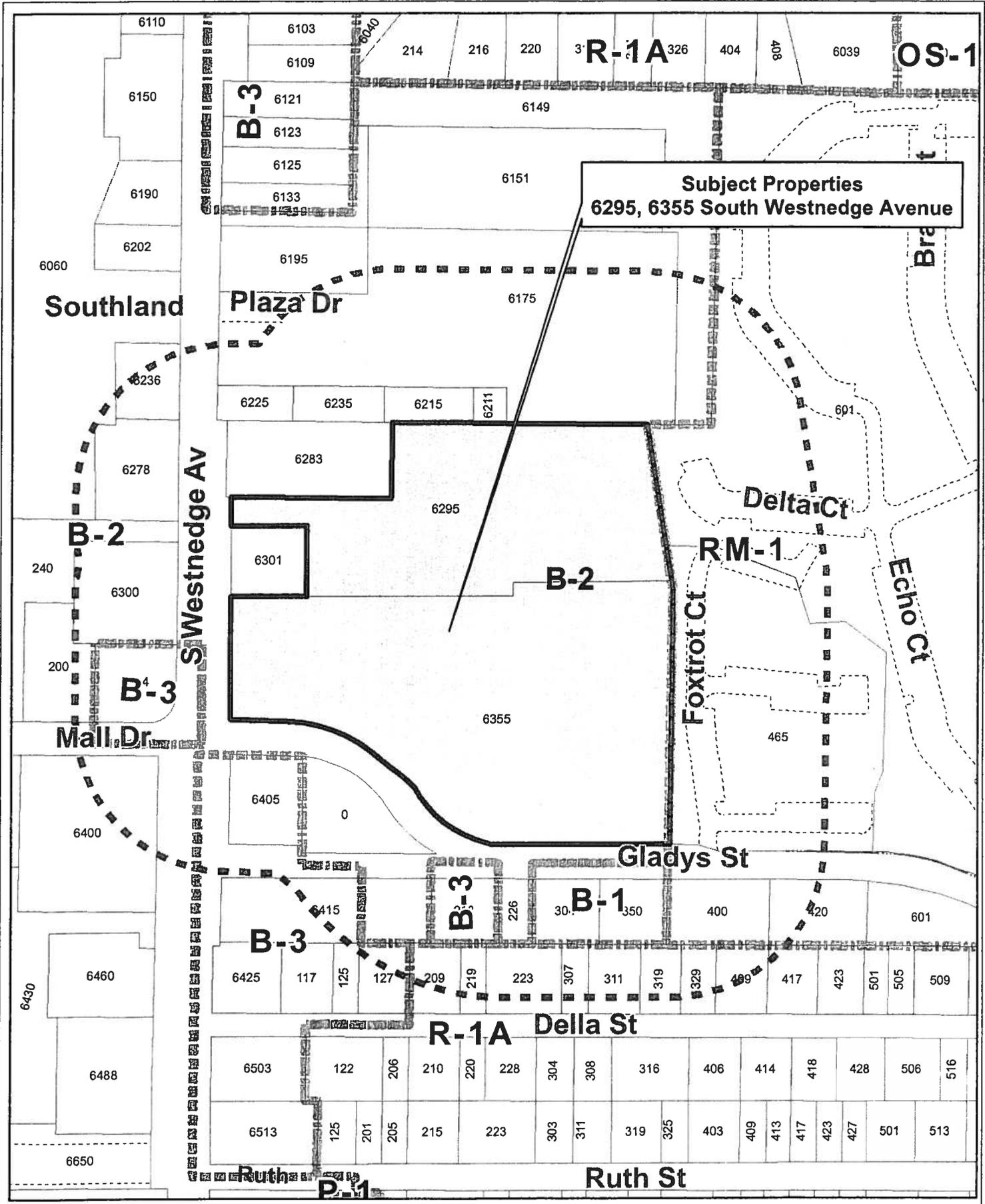
GRAND RAPIDS
217 Grandville Ave, Suite 302
Grand Rapids, MI 49503
PHONE: 616.575.5190

HOLLAND
347 Hoover Boulevard
Holland, MI 49423
PHONE: 616.393.0449

rev.: _____ date: _____
project no.: 11400687 SK1 date: 2-16-12 CH

- Scale 1" =
- = Asphalt
 - = Concrete
 - D = Description dimension
 - M = Measured dimension
 - P = Platted Dimension
 - = Set Iron Stake
 - O = Found Iron Stake
 - x— = Fence Line
 - = Set wood stake





Subject Properties
 6295, 6355 South Westnedge Avenue

ZBA 11-17

6295, 6355 South Westnedge Avenue



Jeff Mais - DSG - Portage, MI CANCELLED

From: Lisa Sawchyn <Lsawchyn@imageoneind.com>
To: "maisj@portagemi.gov" <maisj@portagemi.gov>
Date: 3/1/2012 9:26 AM
Subject: DSG - Portage, MI CANCELLED

Jeff,

Imageone Industries, Inc. on behalf of Dick's Sporting Goods would like to with-draw the variance application request at this time.

Lisa Sawchyn |
677 Dunksferry Road | Bensalem, PA 19020
[✉ Lsawchyn@imageoneind.com](mailto:Lsawchyn@imageoneind.com) | ☎ 215-826-0880 ext. 109

www.imageoneind.com



Department of Community Development

RECEIVED
FEB 17 2012
COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 2-14-12

Name of Applicant Image One Industries / Lisa Sawchyn
Print Signature

Applicant's Address 677 Dunks Ferry Rd. Phone No. 215 826-0880 x109

Name of Property Owner (if different from Applicant) EBL-S Howard Levy

Address 230 South Broad St, Philadelphia, PA 19102 Phone No. 215-790-4709

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

Street Address 6355 South Westwedge Ave

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: leasees agent

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

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

Variance from Zoning Ordinance: Article 4 Section 42-552 Paragraph H+I
Regarding: Use _____ Area _____ Yards _____
Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): Seek application of sign code creates a hardship.

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>11-17</u>	Filing Date: <u>2/17/2012</u>	Tentative Hearing Date: <u>3/12/2012</u>
Previous Application Filed Regarding This Property: <u>ZBA 11-13; ZBA 97-37</u>		

Reason for Variance

1. *Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance.*
 - 600-feet from South Westnedge Avenue;
 - 200-feet from Gladys Street: and
 - 280-feet from the East property line and 380-feet from the nearest multiple family residential dwelling.

These setbacks indicate that a larger sign than allowed be placed for proper visibility, and customer awareness.
2. *Are the physical characteristics you explained above unique and not shared by neighboring properties? Yes, in that neighboring properties are smaller in size and situated closer to the means of egress with not such an acute angle of identification.*
3. *Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? Yes, but with the threat of reduced visibility and a loss of customer base.*
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? This is the least amount of relief needed to properly identify the premises.*
5. *Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area. The amount of relief requested is 86.1 sq ft. above what is already permissible by code. This de minimus amount will not affect any of the surrounding tenants or neighbors.*
6. *Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood of other hazards, that would be detrimental to the property or to the area. On the contrary, the relief asked for would aid in decreased traffic congestion due to better visibility to the site.*
7. *Is the reason for the request, the practical difficulty of the hardship created, due to an act of the applicant or due to an act by the previous property owner? Neither, the practical difficulty arises from the strict application of the code in this particular case.*
8. *Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. The Zoning Ordinance is intended to give adequate identification to the various retail establishments in the area. Granting the variance would allow for the proper identification of the store to customer and potential customers.*

6101 NEWPORT ROAD
POST OFFICE BOX 3015
KALAMAZOO, MICHIGAN 49003-3015
PHONE (269) 323-9484
FAX (269) 321-7884

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FEB 28 2012
COMMUNITY DEVELOPMENT

February 27, 2012

Zoning Board of Appeals
City of Portage
7900 S. Westnedge Avenue
Portage, MI 49002

Request By: Image One Industries, on behalf of Esan LLC and Hareff LLC
and Dick's Sporting Goods
Date of Hearing: Monday, March 12, 2012 at 7:00 p.m.

Dear Sir/Madam:

The purpose of this letter is to respond to the notice of the captioned request and to let you know that Edward Rose Assoc., L.L.C. does not oppose the granting of the variance request filed by Image One Industries, on behalf of Esan LLC and Hareff LLC and Dick's Sporting Goods.

Sincerely,

EDWARD ROSE ASSOC. L.L.C.


Jerry R. Speedy
/mr

c: Jeff Barnum