

CITY OF
PORTAGE
A Place for Opportunities to Grow

ZONING BOARD OF APPEALS

October 8, 2012

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, October 8, 2012

(7:00 pm)

Portage City Hall

Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * September 10, 2012

OLD BUSINESS:

NEW BUSINESS:

- * ZBA# 12-09, Jim Wilson, 2320 Ramona Avenue: requesting a) a variance to allow the combined area of all existing accessory buildings to exceed the ground floor living area of the main building by 516 feet; and b) a six-foot variance to allow an accessory building to be located four feet from another accessory building.
- * ZBA# 12-10, Ronald Sheely, 1622 Forest Drive: requesting a variance to construct a six-foot by ten-foot covered porch/second-story deck, 16 feet from the (east) front property line adjacent to Glenn Drive, and 20 feet from the front (west) property line along Frederick Drive, where a minimum 27-foot setback is required.
- * ZBA# 12-11, Spry Property Management, on behalf of FLM Holdings LLC, 701 East Milham Avenue: requesting a variance to replace the sign panels on a nonconforming freestanding sign.
- * ZBA# 12-12, Joseph Kuchenbuch, 2728 East Shore Drive: requesting: a) a decision that there is a change of circumstances subsequent to a variance denial on August 20, 2012; and b) a variance to construct a 10-foot by 24-foot garage addition 24 feet from the front (north) property line, where a minimum 27-foot front yard setback is required.
- * ZBA# 12-13, Osterhout Properties LLC, 5717 Oakland Drive: requesting a variance from the conflicting land use screening requirements along the north and south property lines in conjunction with a new office development project.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

Star (*) indicates printed material within the agenda packet

Minutes of Meeting – September 10, 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. Six people were in the audience.

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

MEMBERS EXCUSED: Michael Robbe

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

APPROVAL OF THE MINUTES: Bright noted he did not second the motion on August 13th to approve the July minutes. Singer moved and Smith seconded a motion to approve the August 13, 2012 and August 20, 2012 minutes as amended. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA #12-06, 7141 South Westnedge Avenue: Staff summarized the request for a Temporary Use Permit to allow outdoor sales of agricultural products from September 28, 2012 through October 31, 2012, and annually thereafter. Seyburn abstained from participation due to a conflict of interest. Nancy Kortokrax stated they had operated their pumpkin sales at 6355 South Westnedge Avenue for many years but the site was no longer available to them and now they were requesting permission to hold their annual sales at 7141 South Westnedge.

The public hearing was opened. Ken Wahmhoff of Wahmhoff Farms, 11121 M-40 Highway, Gobles, MI stated they, like the Kortokrax's, conducted their annual Christmas tree sales at 6355 South Westnedge for many years but also have to find a new location. Mr. Wahmhoff stated he considered relocating his annual sales to 7141 South Westnedge, and did not agree with staff's recommendation that the zoning lot be limited to one Temporary Use per year. Singer inquired why staff was recommending a limit of one Temporary Use Permit per year when more than one occurred at 6355 South Westnedge Avenue. Staff stated temporary uses can cease to be 'temporary' without a limit on time and/or number of events. Staff stated the two annual Temporary Use Permits at 6355 South Westnedge were approved by the Board at a time when the Zoning Code required all outdoor sale events to be subject to Board review and approval. The Code was subsequently amended to allow administrative review of 'Business Special Events' at commercial properties for up to 28 days per calendar year (in addition to any Temporary Use approved by the Board). The public hearing was closed.

After additional discussion, a motion was made by Bright, seconded by Smith, to grant a Temporary Use Permit to allow outdoor sales of agricultural products from September 28, 2012 through October 31, 2012, and annually thereafter, conditioned upon the Temporary Use be subject to administrative review on an annual basis. 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. Upon roll call vote: Bunch-Yes, Schimmel-Yes, Bright-Yes, Smith-Yes, Singer-Yes, Linenger-Yes, Rhodus-Yes. Motion passed 7-0.

ZBA #12-08, 6503 and 6513 South Westnedge Avenue: Staff summarized the request for a variance of four parking spaces to allow 61 parking spaces where 65 parking spaces are required by the Zoning Code. Mark Chilcott of Plazacorp stated they acquired the property from the original developer, Allied Capital. Two potential future tenants unfortunately fell through after their acquisition. Mr. Chilcott stated they have two new tenants lined up and that based on the parking counts they conducted during July and August found there was sufficient parking for both the existing tenants and two new tenants. Mr. Chilcott said it would not be in their interest to create a situation where tenants did not have adequate parking, and were confident that would not be the case with the new tenants.

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

A motion was made by Singer, seconded by Schimmel, to grant a variance to allow 61 parking spaces where 65 parking spaces are required by the Zoning Code, conditioned upon administrative review of parking requirements for future changes in tenancy for the zoning lot. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include: having tenants that do not need as many parking spaces as required by Code; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to attract new tenants, which is similar to that possessed by other properties in the same zoning district and vicinity; inasmuch as the applicant was not the original developer, the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning Code. 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. Upon roll call vote: Upon roll call vote: Bunch-Yes, Schimmel-Yes, Seyburn-Yes, Singer-Yes, Linenger-Yes, Rhodus-Yes, Bright-Yes. Motion passed 7-0.

ZBA #12-05, 5126 Portage Road: Staff summarized the request for a three square-foot variance to replace an existing Shell Oil freestanding sign with a new 66 square-foot sign where a maximum 63 square-foot sign is permitted. Andy Rhodes of AnD Signs stated the proposed sign with digital price display was the standard freestanding sign being installed at numerous other Shell locations. Bright inquired how many other communities required them to get a variance to do so. The applicant responded this was the only one. Linenger inquired if the applicant also installed the Shell sign at the corner of South Westnedge and Romence. The applicant stated they did, but the site had enough frontage that a variance was not needed.

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

After explanation by staff how the proposed sign was a replacement of a conforming sign with a nonconforming sign, a motion was made by Seyburn, seconded by Singer, to grant a variance to replace an existing Shell Oil freestanding sign with a new 66 square-foot sign where a maximum 63 square-foot sign is permitted. The practical difficulties are the electronic sign will promote employee safety and will result in a reduction in size from the existing sign; 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 Code. 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. Upon roll call vote: Upon roll call vote: Bunch-Yes, Schimmel-Yes, Seyburn-Yes, Singer-Yes, Linenger-Yes, Rhodus-Yes, Bright-Yes. Motion passed 7-0

OTHER BUSINESS:

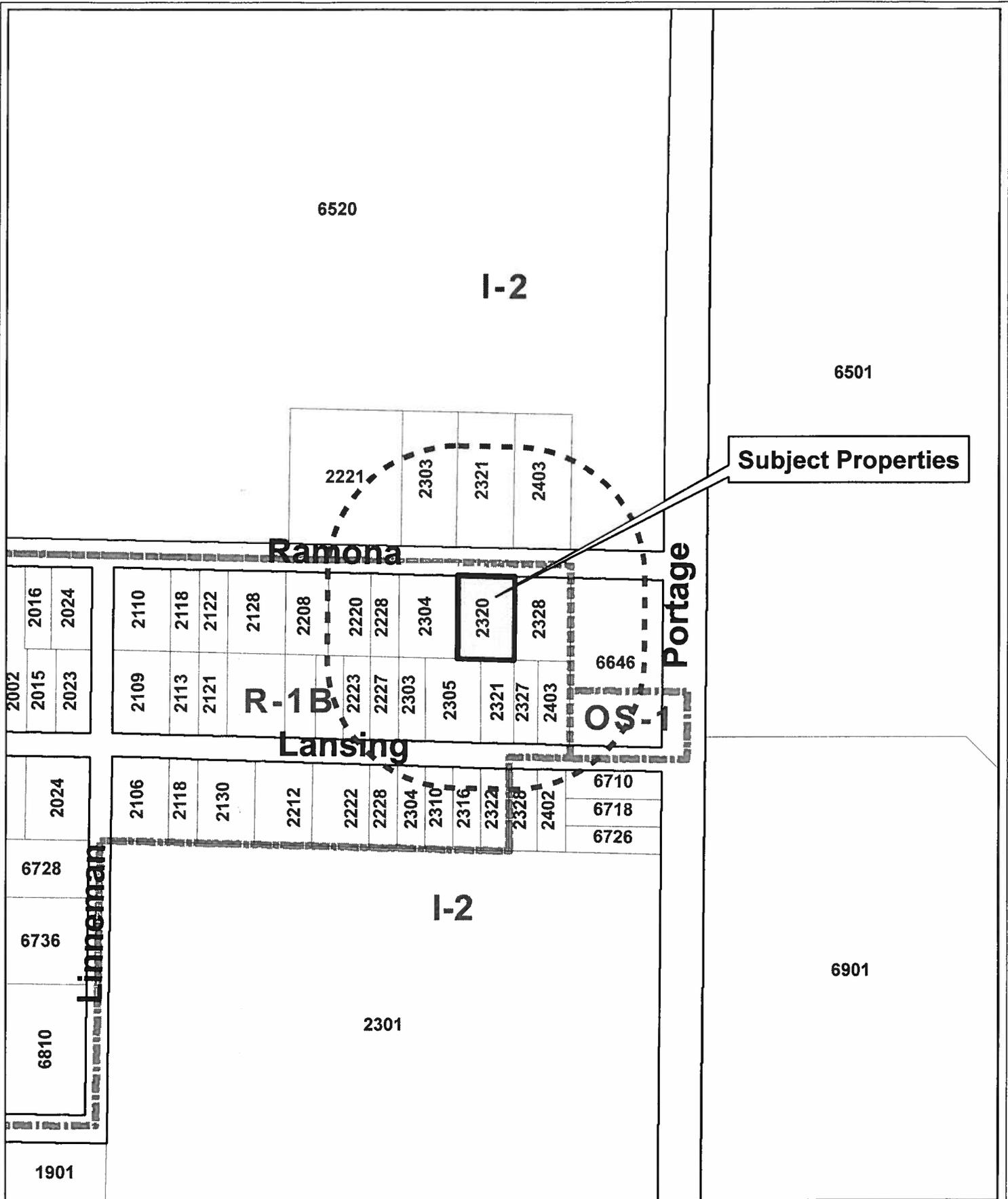
Elections for officers were held with the following results: Robert Linenger – Chair, Lowell Seyburn – Vice Chair, Betty Schimmel – Secretary.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:00 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



ZBA 12-09
2320 Ramona Avenue



1 inch = 300 feet

Legend

- 300' Notification Boundary
- Zoning Boundary
- Subject Properties

RECEIVED
AUG 21 2012
COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 8-20-12
 Name of Applicant JAMES W WILSON Print James W Wilson Signature
 Applicant's Address 2320 RAMONA AVE Phone No. 269-365-9001
 Name of Property Owner (if different from Applicant) JAMES SPRAU
 Address 8748 Windwood Phone No. 269 3~~33~~²⁷-8622

Address of the Property that is the subject of this Application:
 Street Address 2320 RAMONA AVE PORTAGE MI 49002
 For Platted Property: Lot lot 7 of PORTAGE Heights PARCEL # 06480-006-0 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: BUILDING FOR STORAGE OF HOBBY AND COLLECTABLE MATERIAL, ALSO MY GRANDCHILDRENS SWING SET

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 42 Section 121 Paragraph _____
 Regarding: Use Area _____ Yards _____
 Setbacks _____ Parking _____ Other 12'x24' lean too.

Reason for Request (Also complete page 2 of application): STORE, HOBBY, SUPPLIES,

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>12-9</u>	Filing Date: <u>9-4-12</u>	Tentative Hearing Date: <u>10-8-12</u>
Previous Application Filed Regarding This Property:		

Oct 8, 2012

Department of Community Development

ZONING BOARD OF APPEALS APPLICATION INFORMATION

The Board of Appeals is established under State legislation, with specific powers and duties. The strict application of the Zoning Code may not always be appropriate, and some flexibility for individual circumstances is provided through the Zoning Board of Appeals. However, the Zoning Board of Appeals does not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of the Zoning Code, but does have the power to hear an appeal and grant variances, interpret code provisions and grant temporary uses as authorized in the Zoning Code (Chapter 42, Land Development Regulations, Division 7 of the Zoning Code).

The process of review by the Zoning Board of Appeals is established in the Zoning Code. All hearings conducted by the Board are done at meetings that are open to the public, where minutes are kept and records preserved. The Board must notify all owners of property within three hundred (300) feet of property that is the subject of the application of the time and place of the hearing 15 days prior to a meeting. In addition, a public notice will be published in the newspaper 15 days prior to a meeting. The Board considers all information and evidence pertaining to an application before making a determination. The Board regularly meets on the second Monday of every month. It is important that you provide the Board with pertinent information about your application. Information must be provided in advance of the meeting date so that the Board has the opportunity to thoroughly review and consider an application.

IMPORTANT APPLICANT INFORMATION:

Persons filing an application are responsible for providing materials for Board members that describe and graphically illustrate the request. The application and all other materials are submitted to the Department of Community Development, which prepares the meeting agenda for the Board, for distribution to the Board members prior to the meeting. Due to the public notice requirements established by the State legislation, the latest time for submitting an application and any related materials is 20 working days prior to the meeting date.

In addition to the standard application form that is attached, types of information that will help Board members understand your application include:

- Your description of function to be carried out in the structure in question, including specific functions which may dictate the size and/or shape of the proposed structure and proposed activity.
- Your sketches of the proposed structure including plan, elevations, and proposed location on the site.
- Your sketch of the property and adjoining properties and buildings pertinent to the request.
- Your staking of the property to show the extent of the building modification or alteration or, in the case of a new building, the location of the proposed building on the property.
- Your statement of the reason or hardship/practical difficulty that the Board should approve the application.

It is important for you to know that the applicant or representative must attend the Zoning Board of Appeals meeting at which your application will be heard.

REVIEW FEE:

Payment of \$135.00 for an application involving one-family residential uses; Payment of \$330.00 for all other uses.

Please feel free to contact the Department of Community Development for assistance with your application.

P.S. Whom EVER WROTE these question should
HAVE do so in ENGLISH, so they could be
understood.
JW

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.)
SETS BACK FROM ALL PROPERTY LINE PER REGULATIONS.
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)
BUILDING BEEN THERE FOR 2 YR'S AND NO PROBLEM AS FAR AS NEIGHBORS
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)
YES, USED FOR HOBBY MATERIAL ONLY, NEED VARIANCE FOR BUILDING AS EXTRA AREA.
4. ^F (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.)
I YES
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.)
MOST CANT SEE IT, DONT EFFECT THERE LIVING OR PRIVACY AT ALL, SET J MY WOODED AREA, MOST DONT KNOW ITS THERE, ASK MY NEIGHBORS IF ANYTHING IN MY YARD bothers ^{their} _{said}
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.)
BACK OF DOUBLE LOT, HAS ITS OWN FIRE EXTINGUISURE. AND AS ALL MY BUILDING HAVE A WATER HOSE TO REACH THEM.
7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)
NO
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
this building complies with ZONING ORDINANCES EXCEPT OVER MY HOUSE SPACE.

James W Wilson
Signature of Applicant

8-20-12
Date

RECEIVED

AUG 21 2012

COMMUNITY DEVELOPMENT

To: ZONING BOARD

Hi, I'm Jim Wilson and I'm a 100% Disabled Vet, I'm telling you this so when I say I HAVE NO BUSINESSES you'll know I'm telling the TRUTH, AS I'D LOOSE MY U.A. Disability, AND TO LET YOU KNOW, AS I CAN'T WORK, WHAT I HAVE IS MY HOBBYS TO KEEP ME GOING, WITH ARE LAWN TRACTORS AND MY WOOD CRAFTS, I PLAY WITH MY TRACTORS IN THE SUMMER, WOODS CRAFTS IN WINTER, THIS BUILDING HOLDS THE MATERIAL (WOOD) AND LAWN TRACTORS + PARTS, I DO HAVE A SWINGS IN IT FOR MY GRANDKIDS TO SWING ON, I HAVE A DOUBLE LOT AND THIS IS IN THE BACK SOUTH WEST CORNER AND DOESN'T BOTHER ANY PEOPLE AROUND ME. I REALLY NEED THIS FOR STORAGE, IT WOULD REALLY HELP + BE CONSIDERATE IF YOU WOULD GRANT ME THIS VARIANCE.

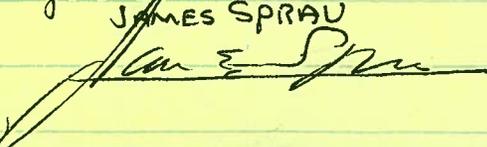
THE SMALL BUILDING IS MY 11 GRANDCHILDREN'S PLAY HOUSE THE PERFECT BABY SETTER, AND TIME HELPER FOR GRANDPA, WITH MY GRANDCHILDREN.

THE PLAY HOUSE IS 7' X 10', THE BIGGER ONE IS 12 X 24', FRAMING 3" STEEL BOLT TOGETHER, 4 1/2' OFF WEST ~~EDGE~~ BOARDER LINE, 20' OFF SOUTH IN MY WOODS.

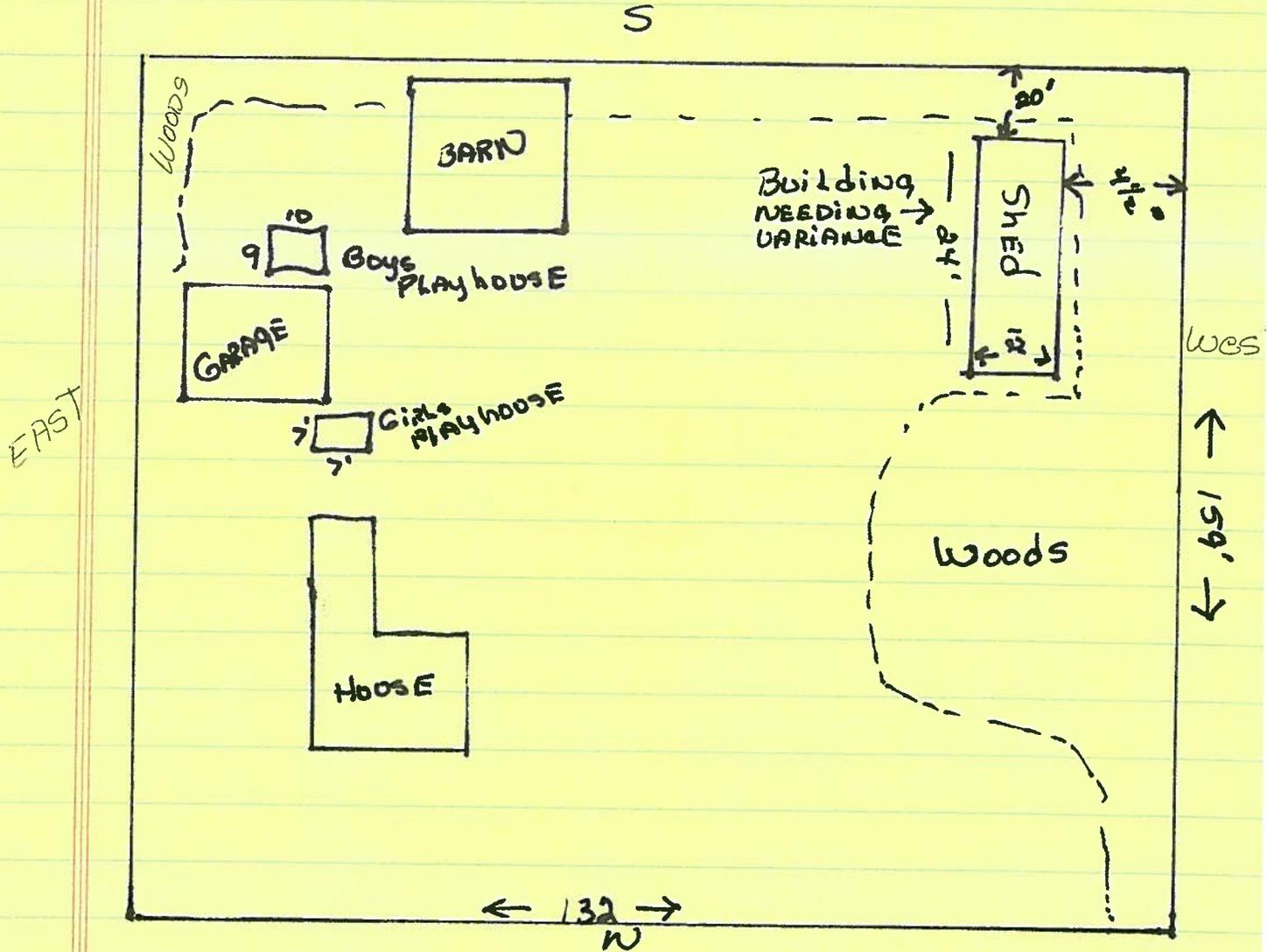
Jim Wilson has told say regarding 2320 Ramona 8-21-12

JAMES SPRAU

Sincerely,


James W. Wilson

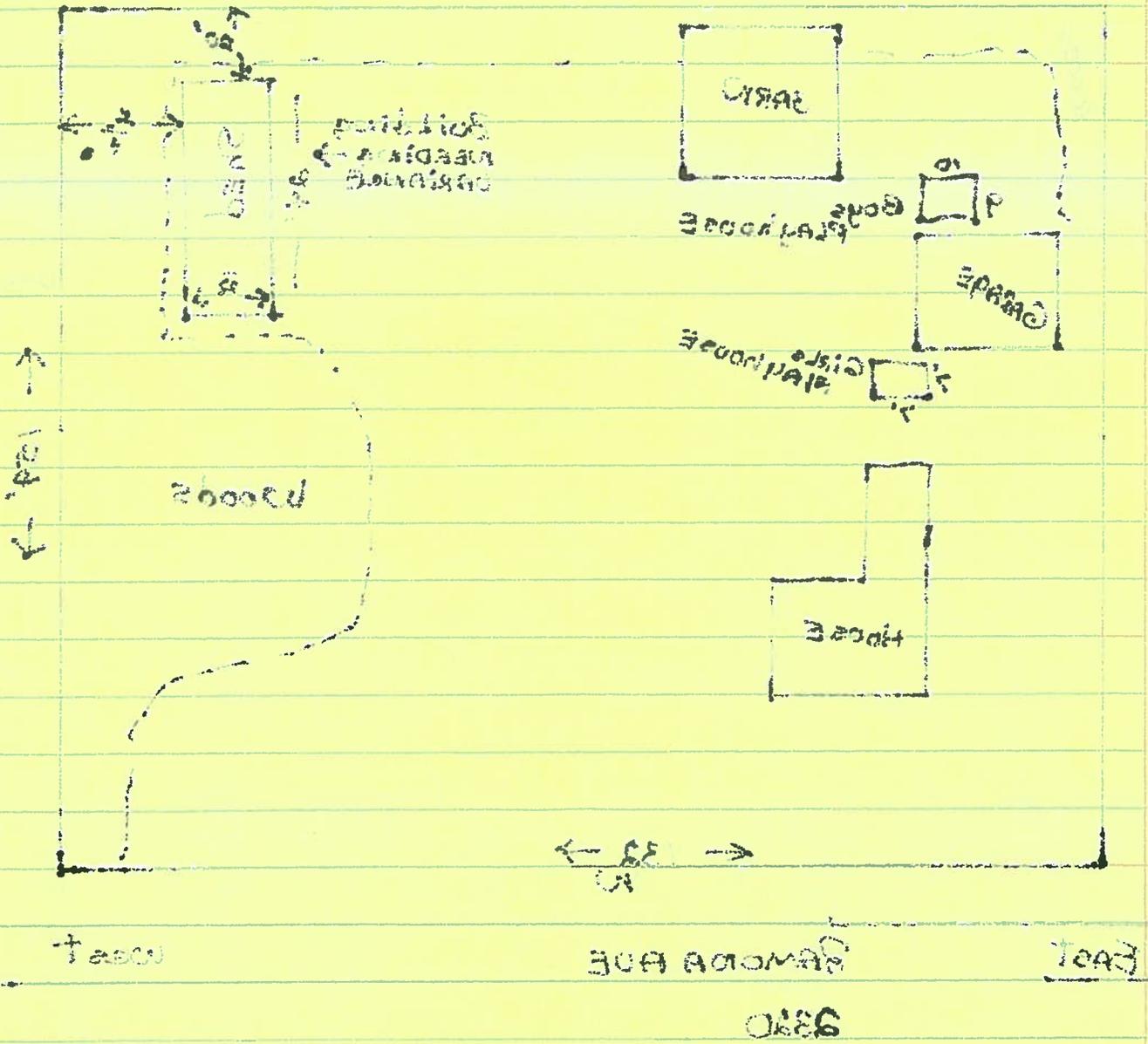
RECEIVED
AUG 21 2012
COMMUNITY DEVELOPMENT



EAST RAMONA AVE WEST

2320

Im paying taxes for 2 lots, waste of space and land not to use it. People that own double lots should have a little more leeway then people with single lot.



This drawing is for a lot of 2.14 acres containing
 one house and two garages. The house is on the
 left side of the lot and the garages are on the
 right side. The driveway is on the left side of the
 house.

TO: Zoning Board of Appeals **DATE:** September 28, 2012
FROM: Vicki Georgeau, ^WDirector of Community Development
SUBJECT: ZBA #12-09; Jim Wilson, 2320 Ramona Avenue; R-1B One Family Zoning
CODE SECTION: 42-121(B); Accessory buildings- Residential zoning districts; p. CD42:28
APPEAL: Requesting: a) a variance to allow the combined area of all existing accessory buildings to exceed the ground floor area of the main building by 516 square feet; and b) a six-foot variance to allow an accessory building to be located four-feet from another accessory building.

**STAFF RECOM-
MENDATION:**

The applicant requests the above variances per the enclosed application and site sketch. The 0.57 acre lot has 132 feet of street frontage on Ramona Avenue and is zoned R-1B, one-family residential. The property is improved with a 1½ story dwelling constructed in the 1940's. The dwelling has 948 square feet of living area on the first floor, 148 square feet on the ½ story and a 594 square foot basement. The dwelling does not meet the current minimum floor area standard of 1,080 square feet on the first floor and 260 square feet on the upper ½ story. The property is surrounded by residential uses also zoned R-1B, while across the street there is a pool business zoned I-2, Heavy Industrial.

In addition to the dwelling, the property is improved with the following detached accessory buildings located in the rear yard (see attached vicinity map and photos):

- 480 square foot detached concrete block garage constructed in the 1940's.
- 576 square foot pole barn constructed in 2004. The permit for this building indicates 432 square feet and when combined with the existing garage, did not exceed the ground floor area of the main building. Sometime after the permit was approved, the building was expanded to 576 square feet.
- 288 square foot shed constructed after 2004, and without prior permit authorization.
- 120 square foot shed constructed after 2004, located four feet from the 480 square foot garage, and without prior permit authorization. The site sketch submitted by the applicant identifies this building as a 9-foot by 10-foot "boys playhouse." This building, however, is designed as a standard shed with a gambrel roof, and field measurements indicate the shed is 10-feet by 12-feet in area.
- There is also a seven-foot by seven-foot play structure on the site, identified as a "girls playhouse" on the site sketch provided by the applicant. Play structures are not regulated by city code, and do not count towards accessory building area.

The combined area of all accessory buildings is 1,464 square feet, and exceeds the main floor living area of the dwelling by 516 square feet. As background information, staff was made aware of the accessory buildings on site after responding to a citizen complaint regarding debris on the property.

The applicant indicates the existing accessory buildings are needed due to the small size of the dwelling and storage space needed for wood craft and other hobbies. While the property is large enough to accommodate the accessory buildings, the main floor living area of the dwelling limits the total area of accessory buildings permitted on the property. On larger, unplatted lots (greater than two acres), Section 42-121(B) of the Zoning Code allows the Planning Commission to consider an increase in accessory building area. The intent of the code is to limit the total area of accessory buildings to preserve neighborhood quality and character.

It is unfortunate the applicant constructed accessory buildings without review by city staff and the issuance of permits. In this regard, the practical difficulty involving the total area of accessory buildings and separation distance between two of the accessory buildings was self created. In addition, conforming alternatives are available to the applicant and include construction of a building addition to the dwelling to increase the first floor living area, or a reduction in the total area of existing accessory buildings. It is acknowledged, however, that the practicality of constructing an addition to the dwelling could be problematic for the homeowner.

With regard to the option to reduce the combined area of the accessory buildings, if the 288 square foot and 120 square foot sheds were removed, the total area of accessory buildings would equal 1,056 square feet, and the need for a variance for the separation distance between two of the accessory buildings would be eliminated. Under this scenario, although the combined area of accessory buildings would still exceed the main floor living area of the dwelling by 108 square feet, the amount of variance needed would be reduced and would be more consistent with the spirit and intent of the Zoning Code. Finally, if the dwelling met the current 1,080 square foot minimum first floor area requirement, no variance to maintain the 1,056 square feet of combined accessory building area would be required. If the Board finds that a practical difficulty exists, a lesser variance can be authorized. As a condition of a lesser variance, it is recommended the Board require removal of the 288 square foot and 120 square foot sheds within 90 days.

**PRACTICAL
DIFFICULTY:**

Small dwelling size noted by applicant. See Suggested Motion form.

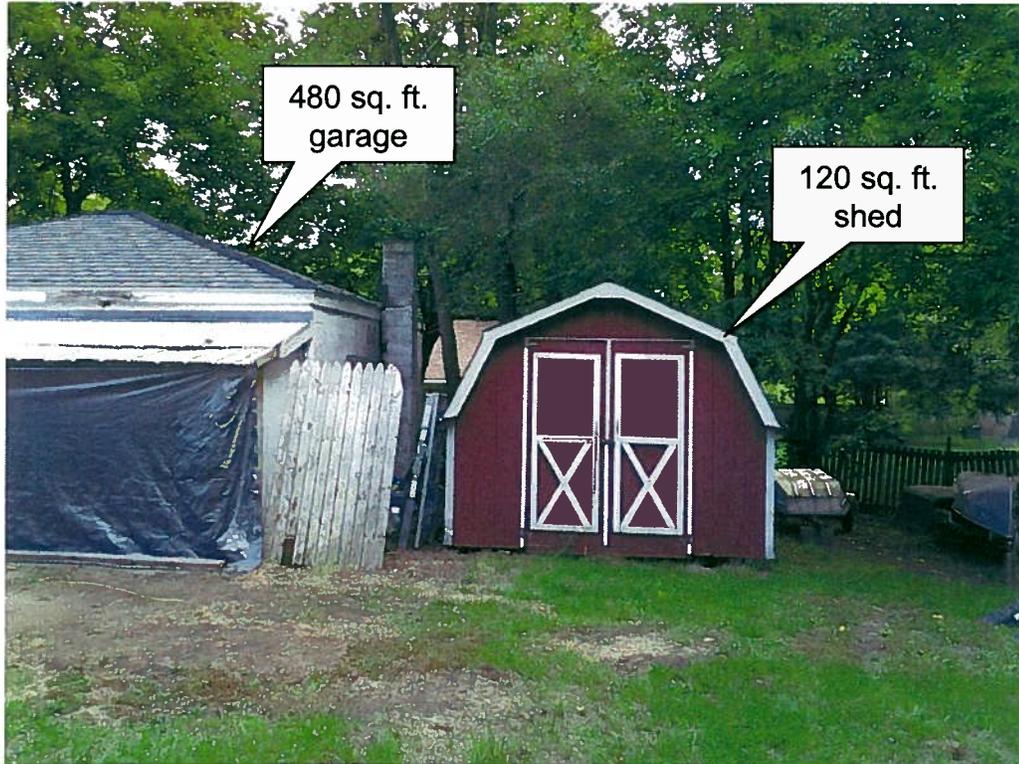
Ramona Av



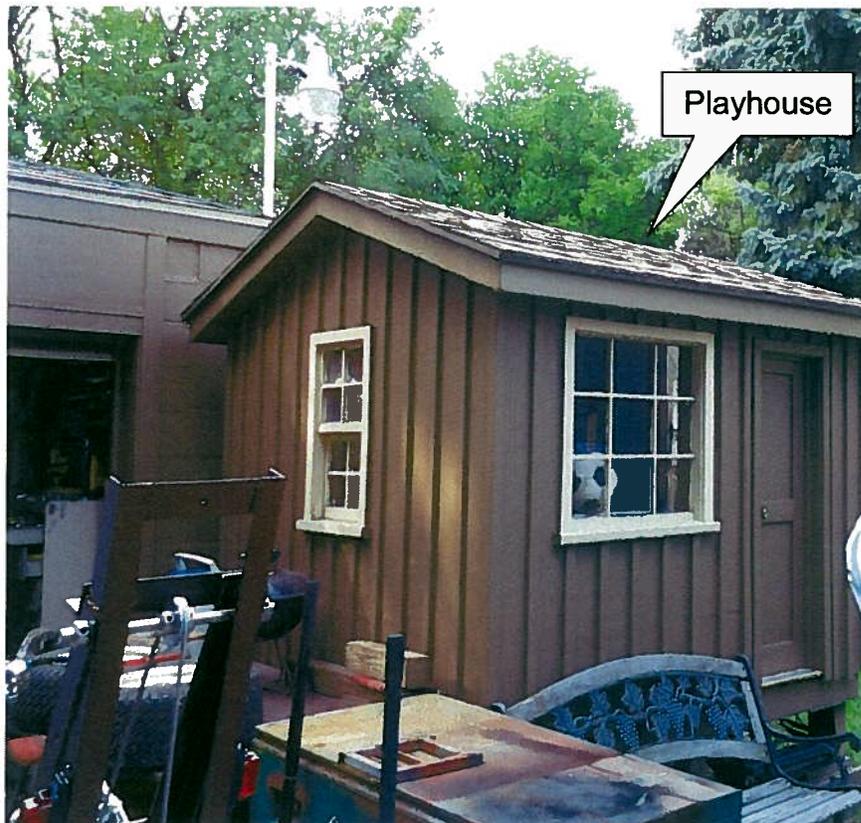
1 inch = 30 feet

Vicinity Map 2320 Ramona Av

ZBA 12-09, 2320 Ramona Avenue



ZBA 12-09, 2320 Ramona Avenue



SUGGESTED NON-USE VARIANCE MOTION FORM

Mr. Chairman:

I move, in regard to ZBA # _____, the application by _____
for a variance from _____

be:

a. granted for all of the following reasons:

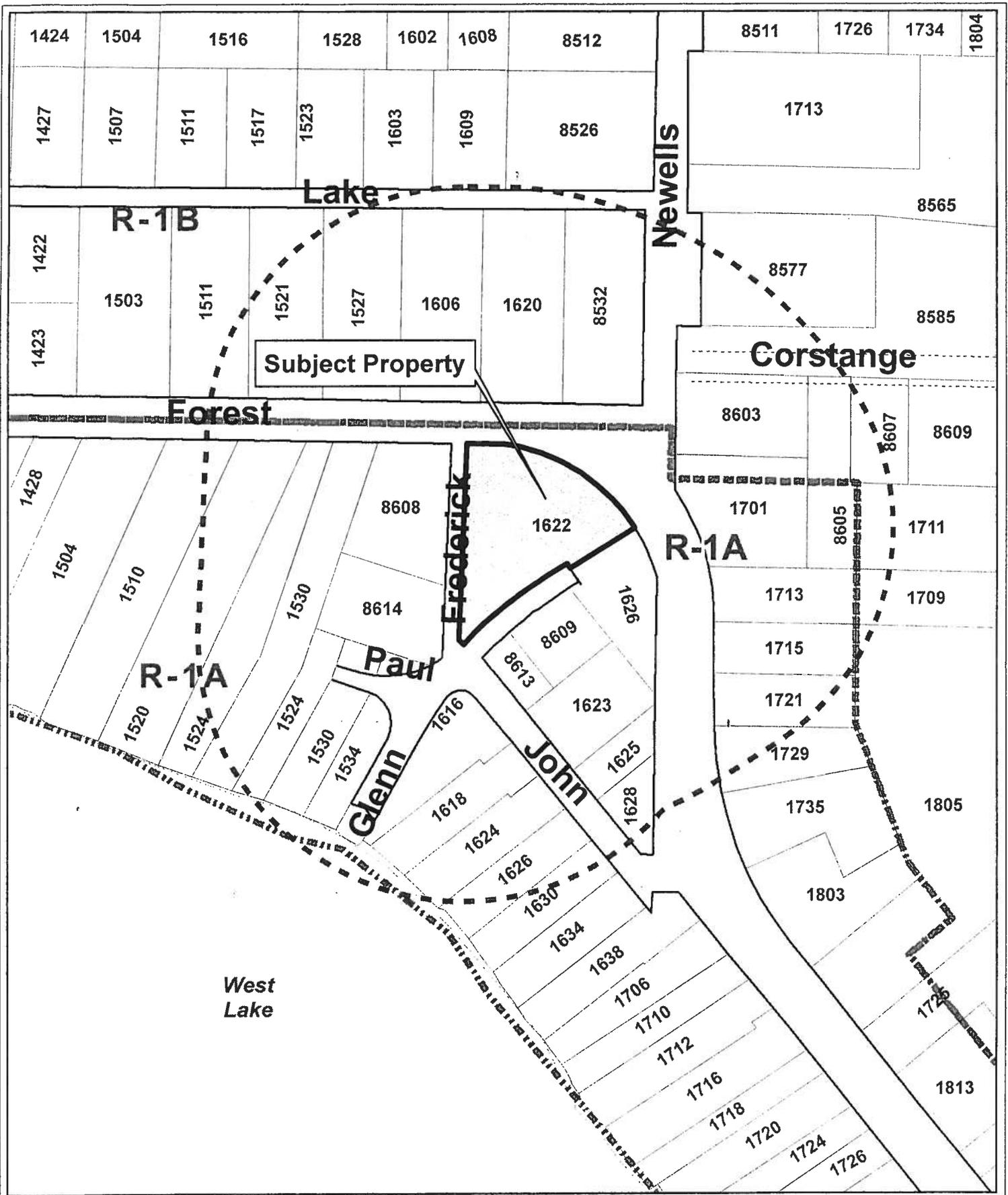
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right to _____, which is similar to that possessed by other properties in the same zoning district and in the vicinity;
- 3a. The immediate practical difficulty causing the need for the variance request was not created by the applicant;
- 4a. The variance will not be detrimental to adjacent property and the surrounding neighborhood, and;
- 5a. The variance will not materially impair the intent and purpose of the zoning ordinance.

-OR-

b. denied for one of more of the following reasons:

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

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



ZBA 12-10
1622 Forest Drive



1 inch = 150 feet

Legend

-  ZBA12-10
-  300' Notification Boundary
-  Zoning Boundary
-  Subject Property

RECEIVED

SEP 07 2012

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 9/7/12
Name of Applicant Ronald Sheely
Applicant's Address 1622 Forest Drive
Name of Property Owner (if different from Applicant)
Address
Phone No.

Address of the Property that is the subject of this Application:
Street Address 1622 Forest Drive
For Platted Property: Lot #22 of Newells West Lake Park 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: Resident and Owner

Application Fee \$135.00 (Residential Uses) (All Other Uses)

Type of Appeal (Please check one of the following bold choices and provide the requested information):
Variance from Zoning Ordinance: Article Section Paragraph
Regarding: Use Area Yards
Setbacks Parking Other

Reason for Request (Also complete page 2 of application): SETBACK OF PROPOSED NEW DECK/PORCH INADEQUATE, DECK/PORCH WOULD NEED TO BE OFF SET ON THE HOUSE FACE.

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 (12-10), Filing Date (9/7/12), Tentative Hearing Date (10/8/12). Row 2: Previous Application Filed Regarding This Property: NO

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.)

PROPERTY HAS AN IRREGULAR SHAPE AND IS CONSIDERED TO HAVE THREE FRONT YARDS. THE SOUTH SIDE OF THE HOME COMES TO A FRONT AND BECOMES RATHER NARROW. (SEE DRAWINGS)

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

YES, THE NEIGHBORING LOTS ARE NORMALLY PROPORTIONED.

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

THE PORCH/DECK COULD BE BUILT IF IT WAS MOVED TO THE WEST CORNER ON THE FACE OF THE HOUSE. HOME WOULD THEN LOOK REBUILT OR NOT BUILT.

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

YES, FOR AESTHETIC AND USEABILITY THIS WOULD BE THE PREFERRED DESIGN.

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

THE PORCH/DECK WILL STILL BE SHORTER THEN THE HOUSE CORNER AND IT WILL IMPROVE THE APPEARANCE OVER THE CURRENT PORCH STRUCTURE

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.)

IT WILL NOT AFFECT NORMAL ACTIVITIES IN THE NEIGHBORHOOD, HAS NO DIRECT EFFECTS

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.)

THE IRREGULAR LOT DIMENSIONS RESULT IN A "FRONT YARD" AND THE ZONING REQUIRES SET BACK WHICH CAN NOT BE OBTAINED

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

Ronald Shelby
Signature of Applicant

9/7/12
Date

Date: September 7, 2012

To: City of Portage

Re: Property variance

Additional notes for the property located at 1622 Forest Drive, Portage, MI 49002:

- 1) The street labeled Glenn Dr. is more or less utilized as a driveway for the neighboring house. It is a dead end road with no traffic.
- 2) The desire of the new porch/deck is enhance the appearance of the home and have a usable space to view the lake and enjoy the outdoors.

With the placement of the home and the irregular shape of the lot, according to the set back regulation, there is not enough space or clearance from the new porch/deck to Glenn Dr. The porch/deck could technically work within the set backs if it were built off-set on the home (not centered on the house but shifted to the west). As for appearances it is felt that this would not be the best choice, therefore this request for a variance is issued in attempt to build in an aesthetically pleasing porch/deck.

RECEIVED

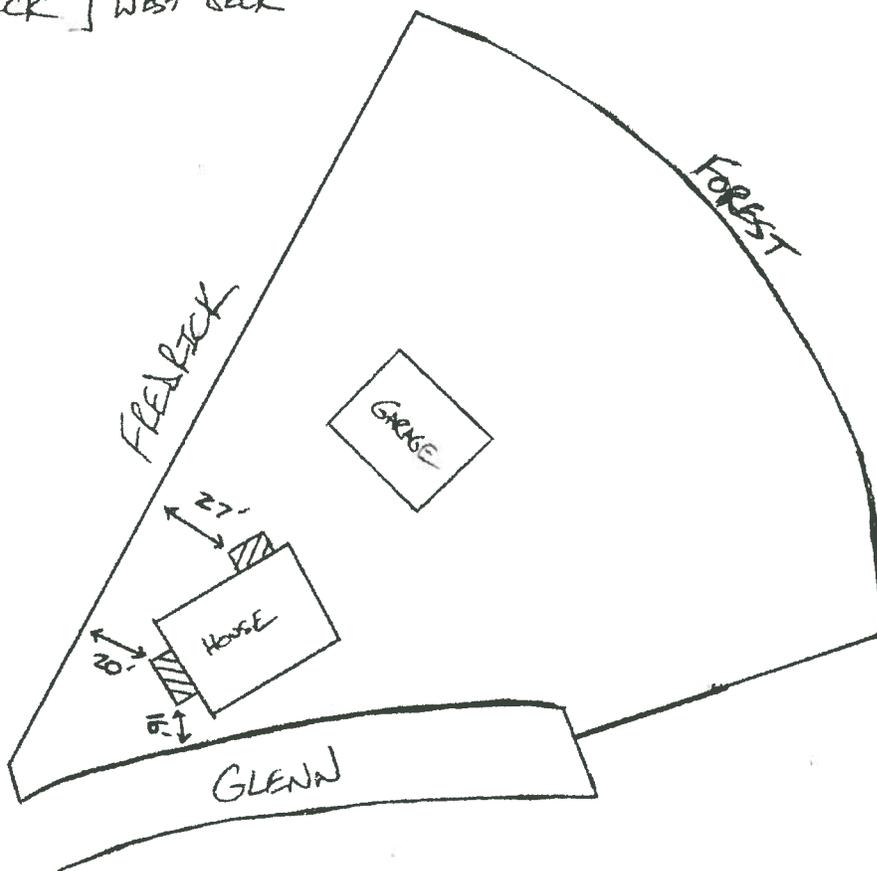
SEP 21 2012

COMMUNITY DEVELOPMENT



SETBACKS

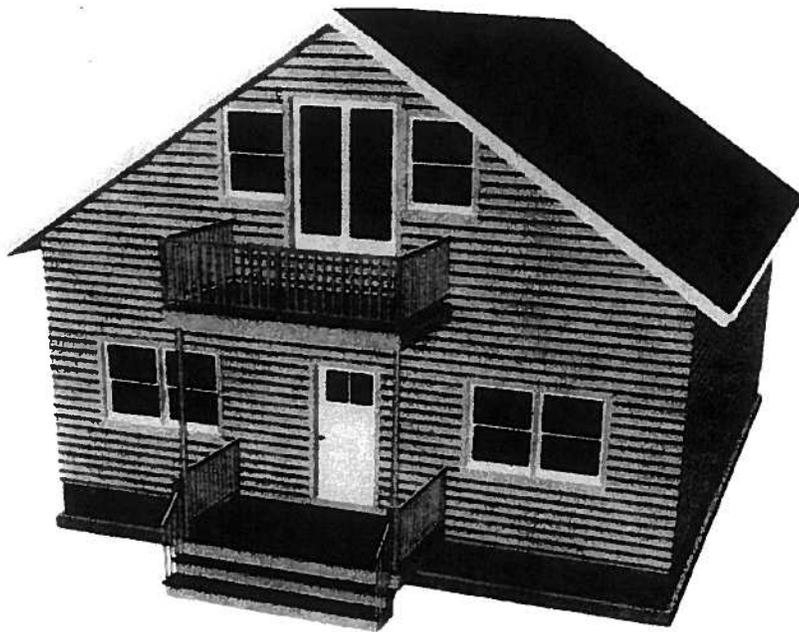
- 16' FROM GLENN] SOUTH PORCH/DECK
- 20' FROM FREDRICK]
- 27' FROM FREDRICK] WEST DECK



*NOT TO SCALE

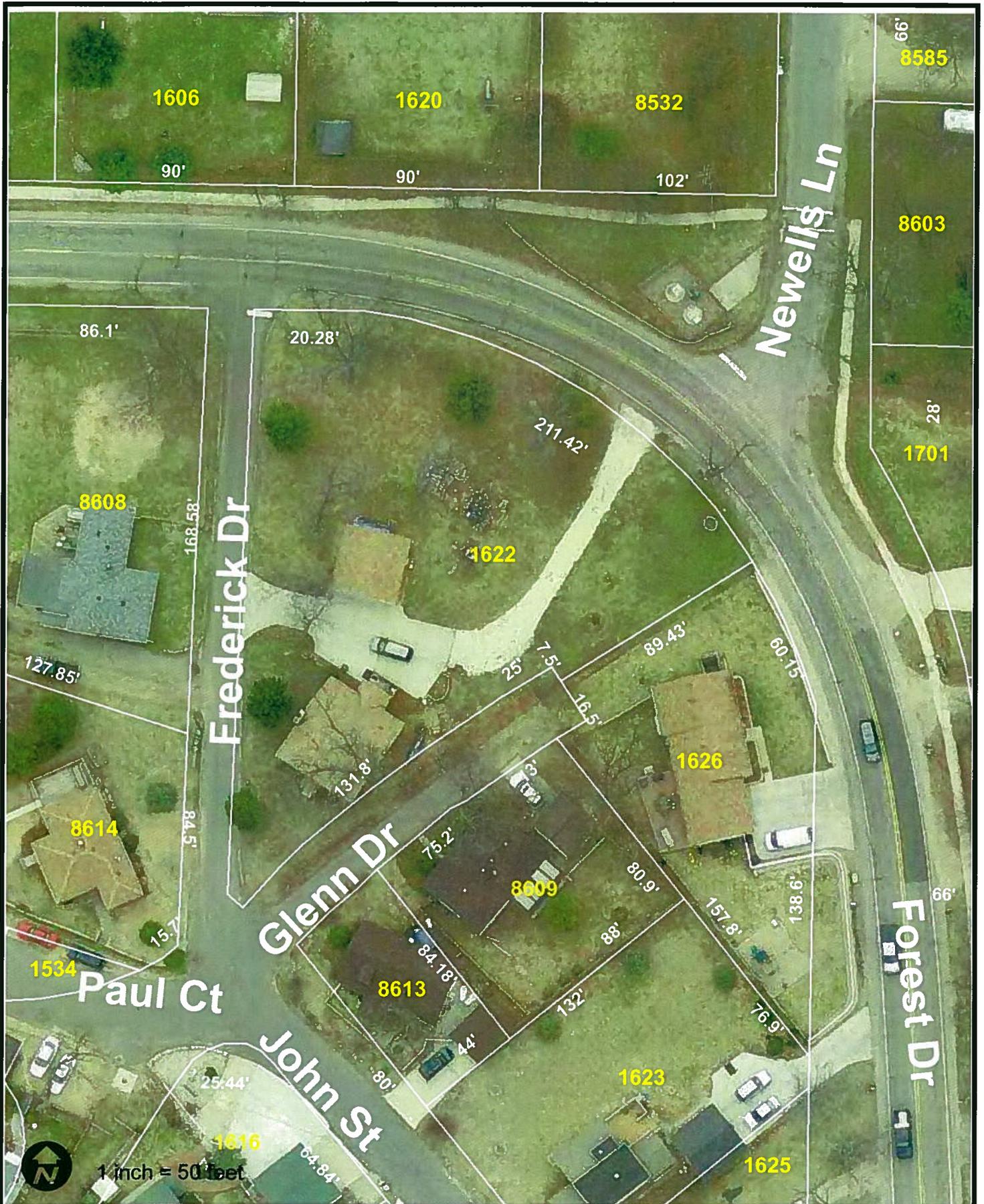
RONALD SHEELY
1622 FOREST & R.
PORTAGE, MI 49002





RONALD SHEELY
1622 FOREST
PORTAGE, MI 49002

 **Capstone**
Home Improvement
1930 W. Milham, Ste C
Portage, MI 49024



**Vicinity Map
1622 Forest Drive**

TO: Zoning Board of Appeals **DATE:** September 29, 2012
FROM: Vicki Georgeau, ^{VG} Director of Community Development
SUBJECT: ZBA #12-10; Ronald Sheely, 1622 Forest Drive; R-1A, One Family Residential
CODE SECTION: 42-350(A) Schedule of Regulations; p. CD42:84
APPEAL: Requesting a variance to construct a six-foot by ten-foot covered porch/second-story deck, 16 feet from the (east) front property line adjacent to Glenn Drive, and 20 feet from the front (west) property line along Frederick Drive, where a minimum 27-foot setback is required.

STAFF RECOMMENDATION:

The 35,283 square-foot triangular-shaped property has street frontage on Forest Drive, Frederick Drive, and Glenn Drive, and is improved with a nonconforming 2,016 square-foot dwelling constructed in 1920, and a 576 square-foot detached garage. The dwelling is legally nonconforming because its southeast corner is setback eight feet from Glenn Drive and 17 feet from Frederick Drive when the minimum front yard setback distance is 27 feet. The property is zoned R-1A, One-Family Residential and is surrounded by single family residences.

The dwelling currently has a six-foot by five-foot covered stoop at the south entrance that the applicant proposes to replace with a ten-foot by six-foot covered porch/second-story deck. Other improvements to the house, including windows and siding are also planned. The proposed covered porch/deck would extend to within 16 feet of the front (east) property line along Glenn Drive. Glenn Drive is a 150-foot long street stub that provides vehicular access for one property located at 8609 Glenn Drive. The proposed porch would also be 24 feet from the (west) front property line along Frederick Drive. Because the proposed porch does not meet the minimum 27-foot front setbacks, a variance is requested.

There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include: the triangular shape of the lot with three street frontages, and the nonconforming location of the dwelling near the south end of the property which terminates at a point. The immediate practical difficulty causing the need for the variance was not created by the applicant, and conforming alternatives are not practical. The request is minor and would have minimal impact on neighboring properties as few of the structures and/or dwellings in the immediate vicinity appear to conform to minimum front setbacks. For these reasons, the variance can be recommended.

PRACTICAL DIFFICULTY:

Triangular shape of property, location of existing dwelling on lot, multiple street frontages. 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:

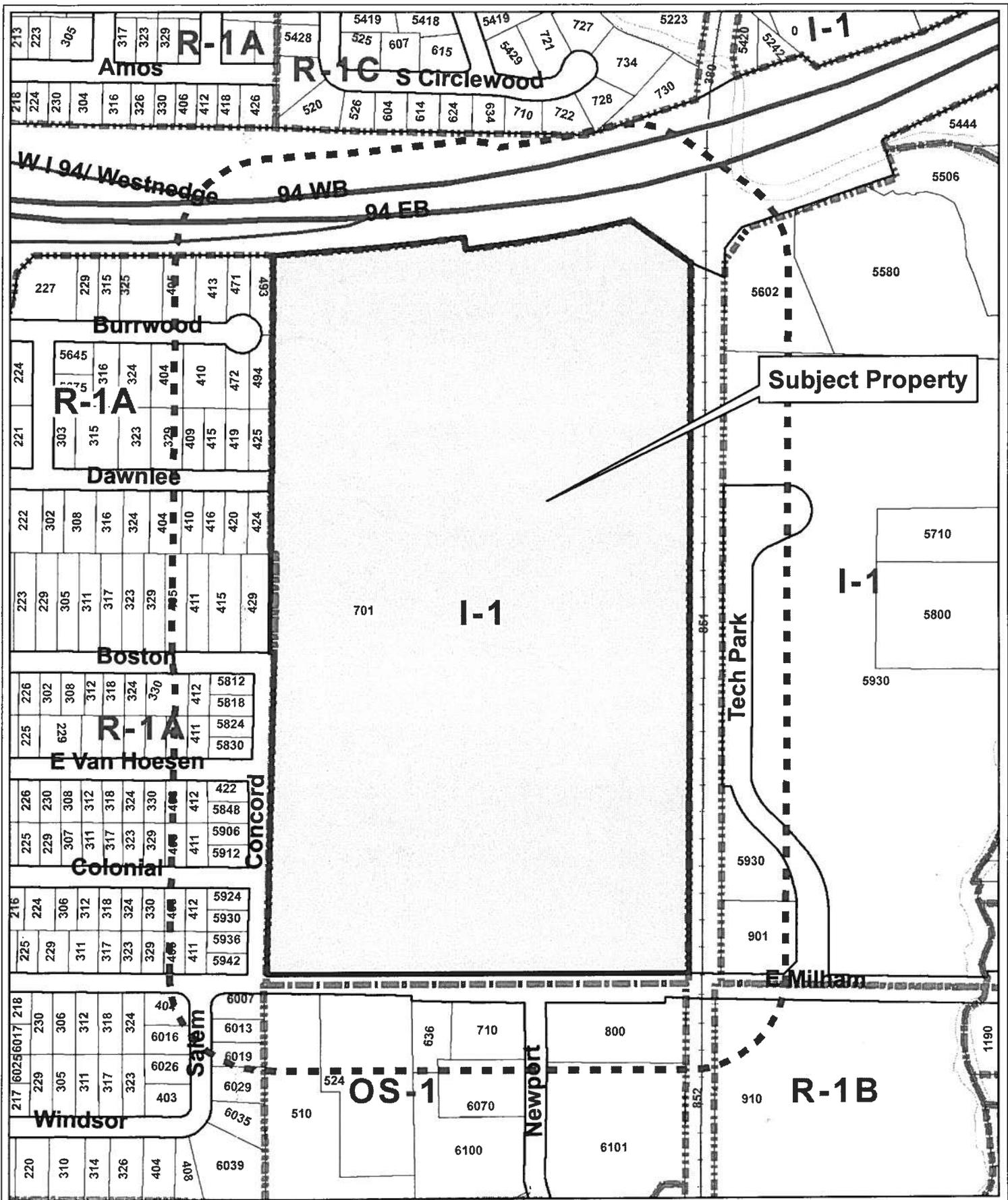
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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



Subject Property

ZBA 12-11

701 East Milham Avenue



1 inch = 400 feet

Legend

-  Zoning Boundary
-  300' Notification Boundary
-  Subject Property

RECEIVED

SEP 10 2012

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 9/5/2012
Name of Applicant Spry Property Mgmt. Print Signature Mela A Roy
Applicant's Address 503 N. Prairie Ave 49006 Phone No. (269) 265-8532

Name of Property Owner (if different from Applicant) FLM Holdings
Address 701 East Milham Road 49002 Phone No. (269) 226-0016

Address of the Property that is the subject of this Application:
Street Address 701 East Milham Road Portage, MI 49002
For Platted Property: Lot of Plat

[If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.]
Applicant's interest in Property that is the subject of this Application: Property Manager for FLM Holdings
Application Fee (Residential Uses) 330 (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 Sub 2-Signs Section 42-553 Paragraph B 1
Regarding: Use Area 48 sq ft. Yards
Setbacks Parking Other

Reason for Request (Also complete page 2 of application): Current sign at facility is a permanent structure that covers 59 sq feet exceeding ordinance of 48 sq ft.
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 (12-11), Filing Date (9/10/12), Tentative Hearing Date (10/8/12). Row 2: Previous Application Filed Regarding This Property: 01-22 ; 02-22

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.)

Nonconforming freestanding permanent sign at facility

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

Sign remains same in size since last variance in 2003. New owner is requesting installation of letters with business name.

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

Without the granting of the variance a structural change would be required.

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.)

Minimum necessary; sign meets all other ordinance requirement for setback and not exceeding 65 foot high; just exceeds the square footage of 48.

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.)

This nonconforming sign is currently in place. Only change is related to change in ownership and desire to rebrand for new business.

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

No change to current structure.

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.)

At change of ownership panels were removed, new owner replaced panels with white steel.

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

The name change of the sign has no adverse effect on the public well being. The company should have a right to brand there company in the community. And show they are helping bring/maintain jobs in the city of Portage

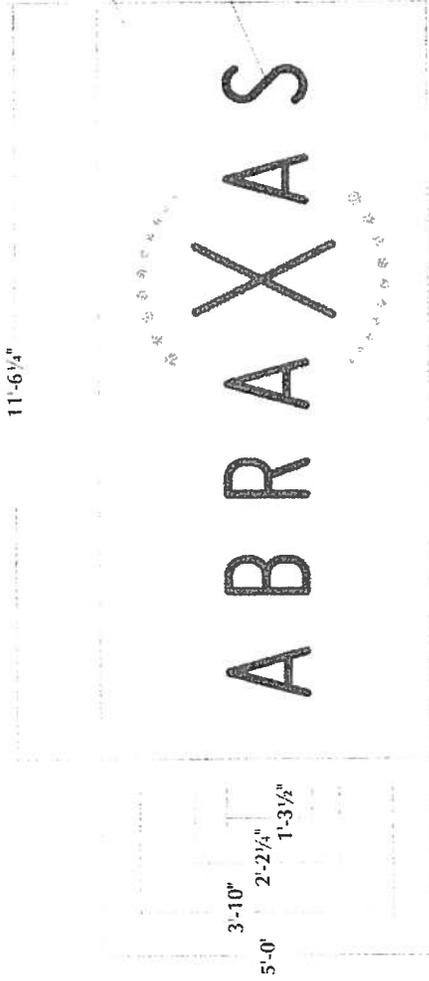
Mule @ Ray
Signature of Applicant

9/7/12
Date

SignArt

SIGN #1

19mm 1/8" 1'-4" 19mm

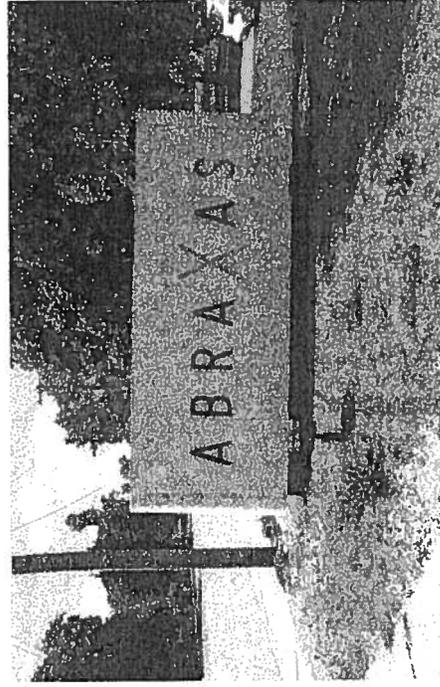


Existing aluminum sign overlay.

19mm flat cut Sintra letters with mill finish returns painted GripCard BC semi-gloss to match PMS 5473c, PMS 299c and PMS 583c. Letters to be stud mounted 3/8" from sign face using tube spacers painted GripCard Plus semi-gloss white.

Sign #1 — Double Faced Non-Illuminated Monument Sign

Scale: 3/8" = 1'-0"



Elevation

Scale: None

Abraxas — 701 East Milham , ve., Portage, MI 49002

Lead #SV2-023221

This is an original uneditable file. It is not to be reproduced, copied or exhibited in any fashion without written permission of SignArt. ©2012

AC

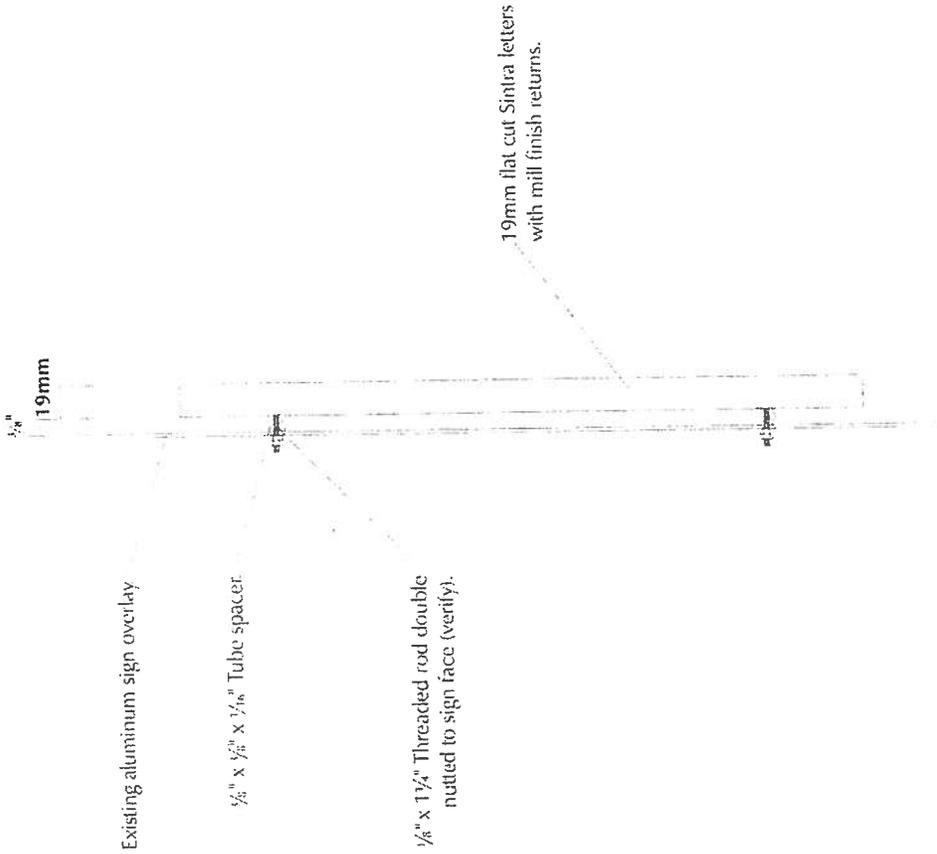
8-22-12

Approved for:

By:

Date:

abraxas



Existing aluminum sign overlay

$\frac{1}{8}$ " x $\frac{1}{2}$ " x $\frac{1}{16}$ " Tube spacer

$\frac{1}{8}$ " x $1\frac{1}{4}$ " Threaded rod double nutted to sign face (verify).

19mm flat cut Sintra letters with mill finish returns.

Stud Mount Detail Scale: 3" = 1'-0"

Abraxas — 701 East Milham, ve., Portage, MI 49002

Lead #SV2-023221

This is an original unpublished drawing. submitted for your use in connection with a project being planned for you by SignArt. It is not to be reproduced, copied or exhibited in any fashion without written permission of SignArt. ©2012

abraxas

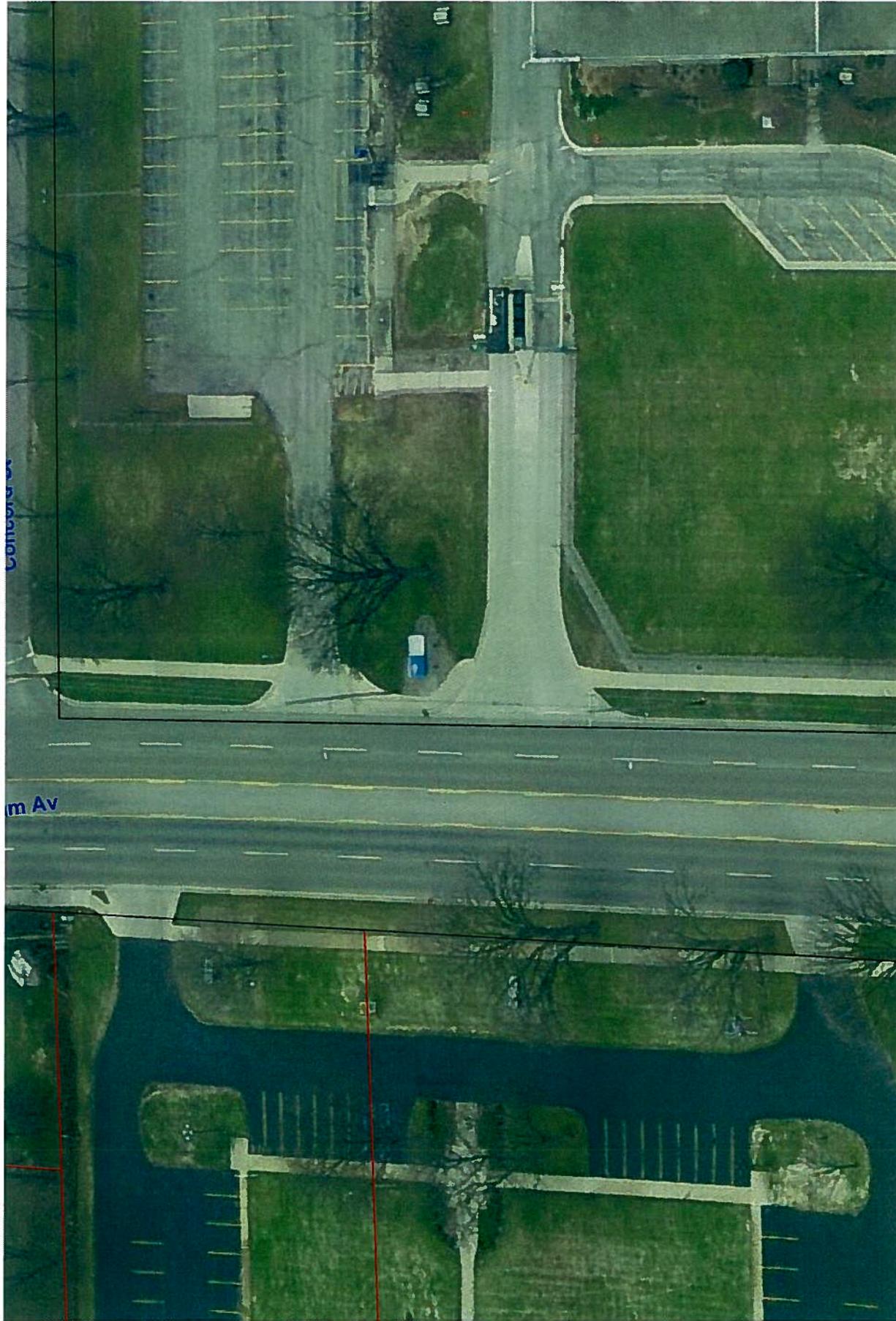
AC

8-22-12

Approved for:

By:

Date:



Copyright ©2009 Pictometry International Corp.

Average Scale: 1 inch = 42.9 feet



TO: Zoning Board of Appeals **DATE:** September 28, 2012
FROM: Vicki Georgeau, ^WDirector of Community Development
SUBJECT: ZBA #12-11; Spry Property Management, on behalf of FLM Holdings LLC, 701 East Milham Avenue; I-1, Light Industrial
CODE SECTION: 42-544(B)1. Nonconforming Signs; p. CD42:128
APPEAL: Requesting a variance to replace the sign panels on a nonconforming freestanding sign.
STAFF RECOMMENDATION:

The 75 acre property is improved with a 463,200 square-foot industrial building, and is zoned I-1, Light Industrial. The parcel is adjacent to an industrial park to the east, offices to the south across East Milham Avenue and a residential neighborhood to the west.

As background information, the Board approved a variance (ZBA 01-22) for Pharmacia in November 2001 to permit the installation of a 58 square-foot freestanding sign at 701 East Milham Avenue. The maximum size of a freestanding sign located in a light industrial zoning district is 48 square feet. The subject sign was included as part of a package of signs at several Pharmacia locations in the city. Following acquisition of Pharmacia by Pfizer, the Board approved a variance (ZBA 02-22) in February 2003 to replace the sign panel at 701 East Milham Avenue as well as several other Pfizer property locations. FLM Holdings, LLC has recently purchased the property and proposes to replace the sign panels to reflect the new ownership and company name, AbraXas.

The practical difficulties cited in the previous variances were based on the “unique and complex nature of the large manufacturing campus, number of separate facilities, and significant street frontage of the campus”. The property is no longer part of a campus with multiple facilities in the community, and conforming alternatives are available, which include either erecting a conforming sign or entering into a five-year nonconforming sign agreement. However, the property has significant street frontage (1,300 feet) on East Milham Avenue and the sign is located approximately 195 feet from the west property line and over 1,000 feet from the east property line. In addition, the variance request is minimal, no structural sign changes are proposed, and the sign does not present adverse impacts on adjacent properties. If the Board finds a practical difficulty exists, the variance may be approved.

PRACTICAL DIFFICULTY: Significant street frontage noted by applicant. 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:

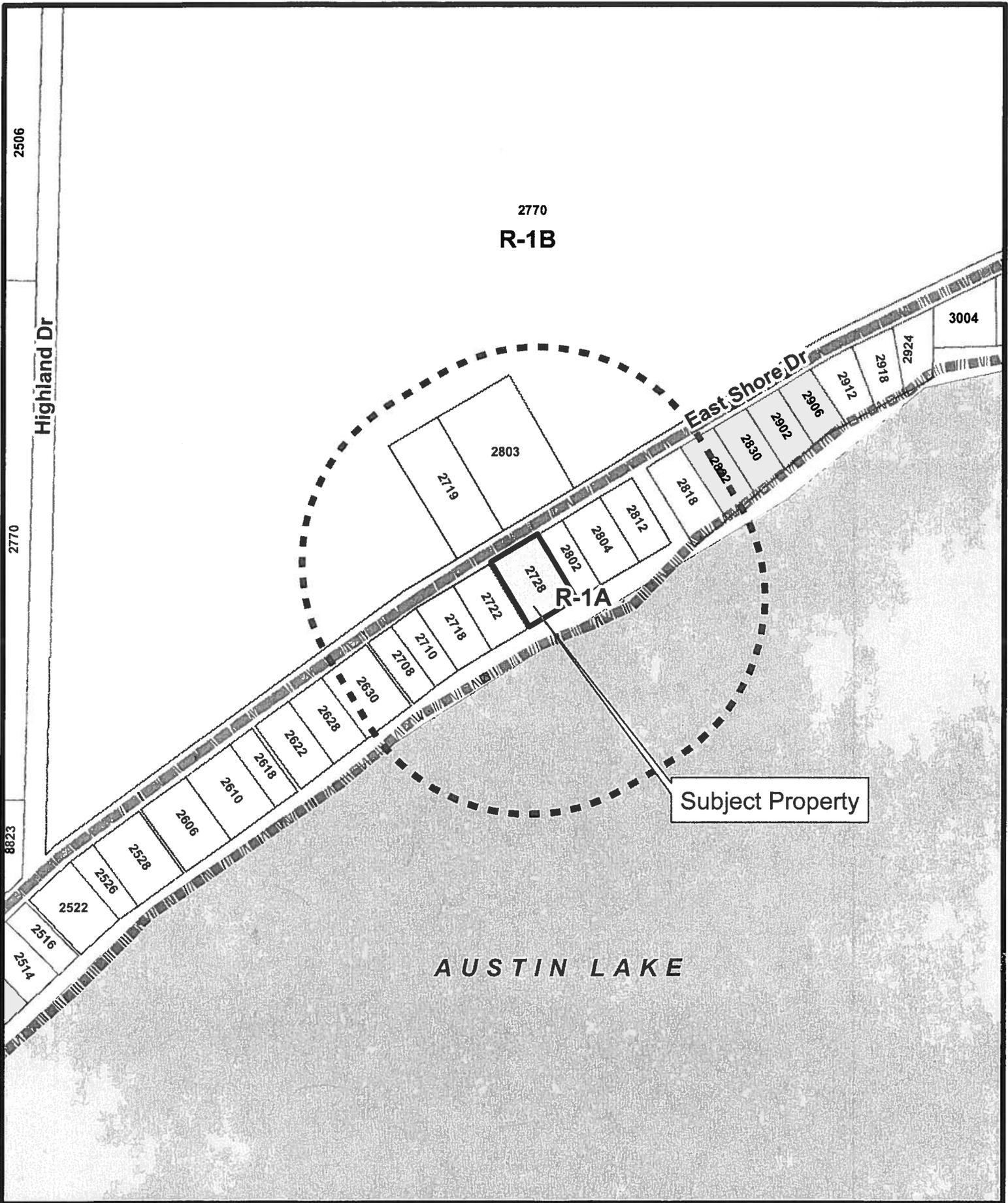
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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

ZBA 12-12
2728 East Shore Drive



1 inch = 200 feet

12-1000011
RECEIVED

SEP 10 2012

COMMUNITY DEVELOPMENT



Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date September 9, 2012
Name of Applicant Joseph Kuchenbuch Joe Kuchenbuch
Print Signature
Applicant's Address 2728 East Shore Drive Phone No. 269-324-5529
Name of Property Owner (if different from Applicant) _____
Address _____ Phone No. _____

Address of the Property that is the subject of this Application:
Street Address 2728 East Shore Drive
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: Home Owner

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

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

Variance from Zoning Ordinance: Article _____ Section _____ Paragraph _____
Regarding: Use _____ Area _____ Yards _____
Setbacks Parking _____ Other _____

Reason for Request (Also complete page 2 of application): We are working with the city to determine an acceptable variance that will allow for an additional garage space.

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>12-12</u>	Filing Date: <u>9/10/12</u>	Tentative Hearing Date: <u>10/8/12</u>
Previous Application Filed Regarding This Property: <u>103</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. (Attach additional sheets if needed.)

The existing garage and foundation for this property is accessed from the side of the house rather than the street.

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

The physical characteristics are unique to this property. The general garage access is from the street for the neighboring properties.

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

No, in order to add a garage space that is safe, functional and allows for the preservation and enjoyment of a substantial property rights, a variance will be necessary.

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.)

This variance request reflects the suggestions of the board and is the minimum necessary to permit reasonable use of the land and buildings.

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

The variance would not affect the adjacent properties view, access or security. The requested variance would not obstruct the view of traffic, would not obstruct the traffic on E. Shore Drive and would actually enhance the security of the neighborhood.

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

The variance will IMPROVE the traffic congestion by getting cars and boats off the road, and improve the access for fire trucks to the 5' right of way. Reducing the congestion will increase the safety for the children and pets in the neighborhood.

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.)

The existing property can not reasonably provide for the protection of property without a variance. The variance will not alter the character of the area or diminish property values in the neighborhood. The unique footprint of the property was not self created. The variance will provide justice for the area.

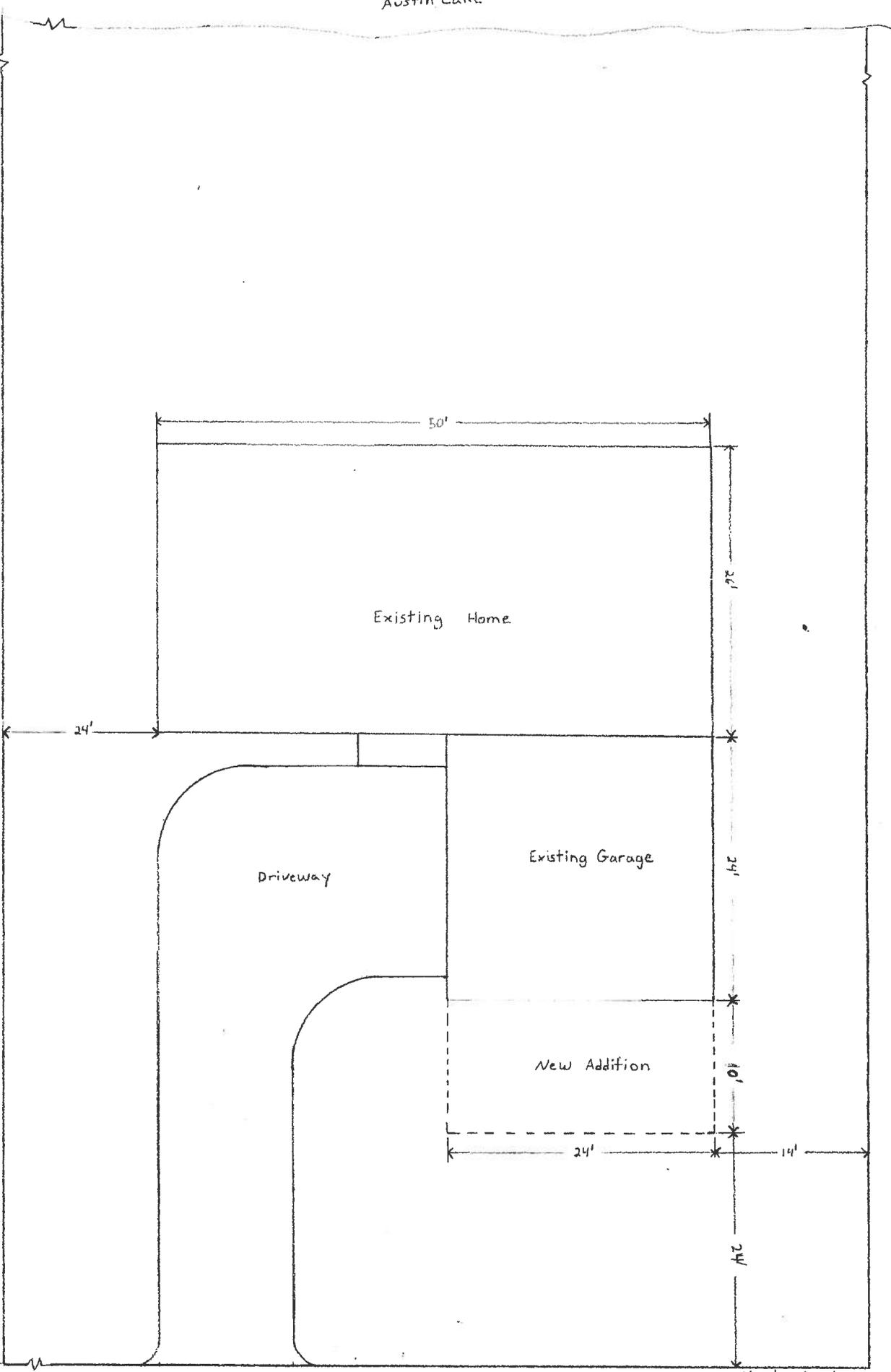
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

The spirit and intent of the zoning ordinance will be fulfilled by granting the minimum necessary variance, which will enable the homeowner to protect their property, permit reasonable use of the land and buildings and enhance the safety and security of the neighbors and neighborhood.

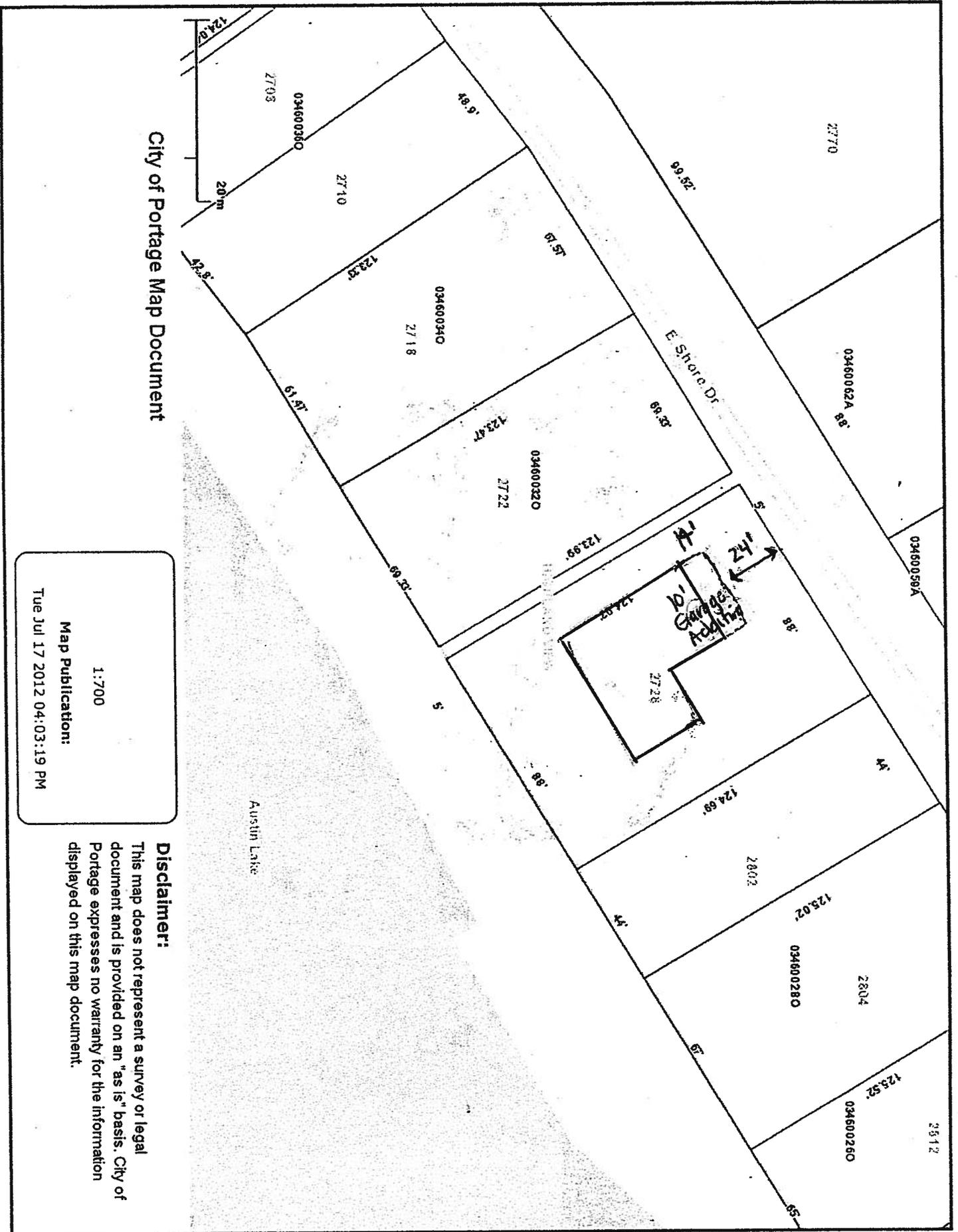
Joe Kuehenbuech
Signature of Applicant

9-9-2012
Date

Austin Lake



Kuchenbuch
Site Plan
3728 Eastshore Dr.
C+E Construction
Scale: 1/4" = 1 Foot



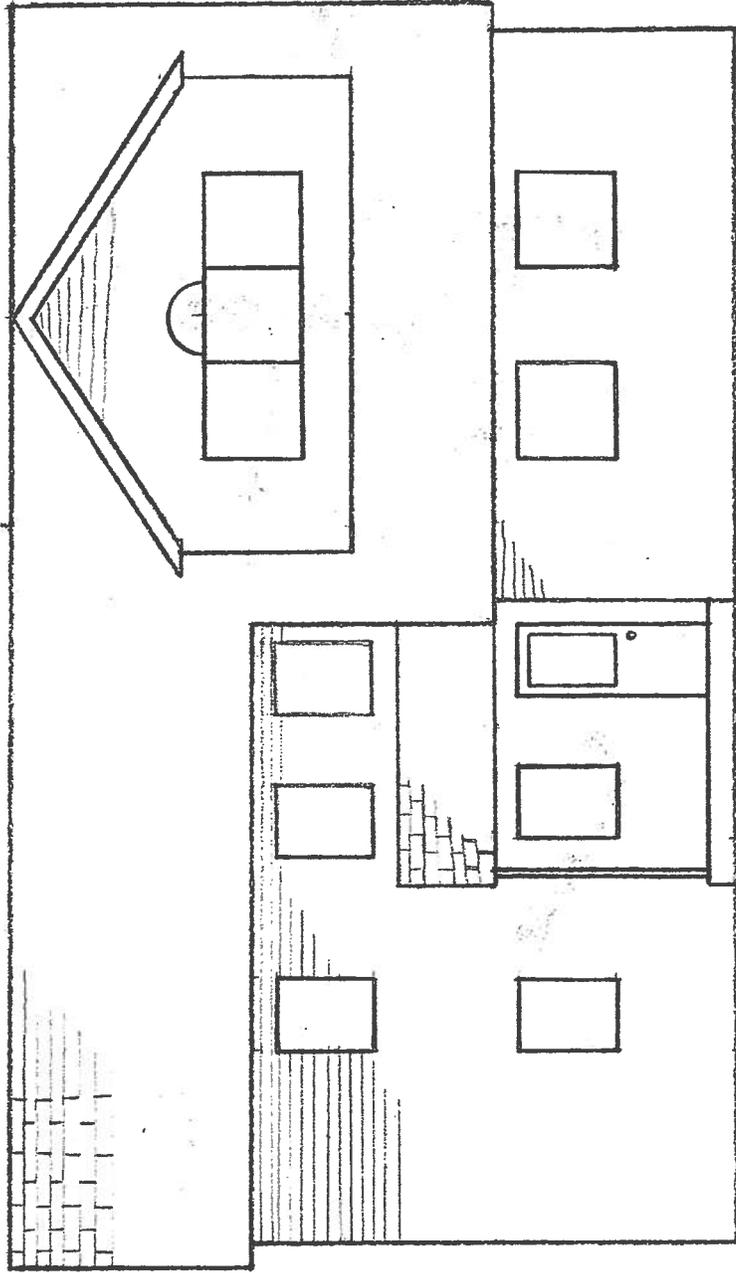
City of Portage Map Document

Map Publication:
 1:700
 Tue Jul 17 2012 04:03:19 PM

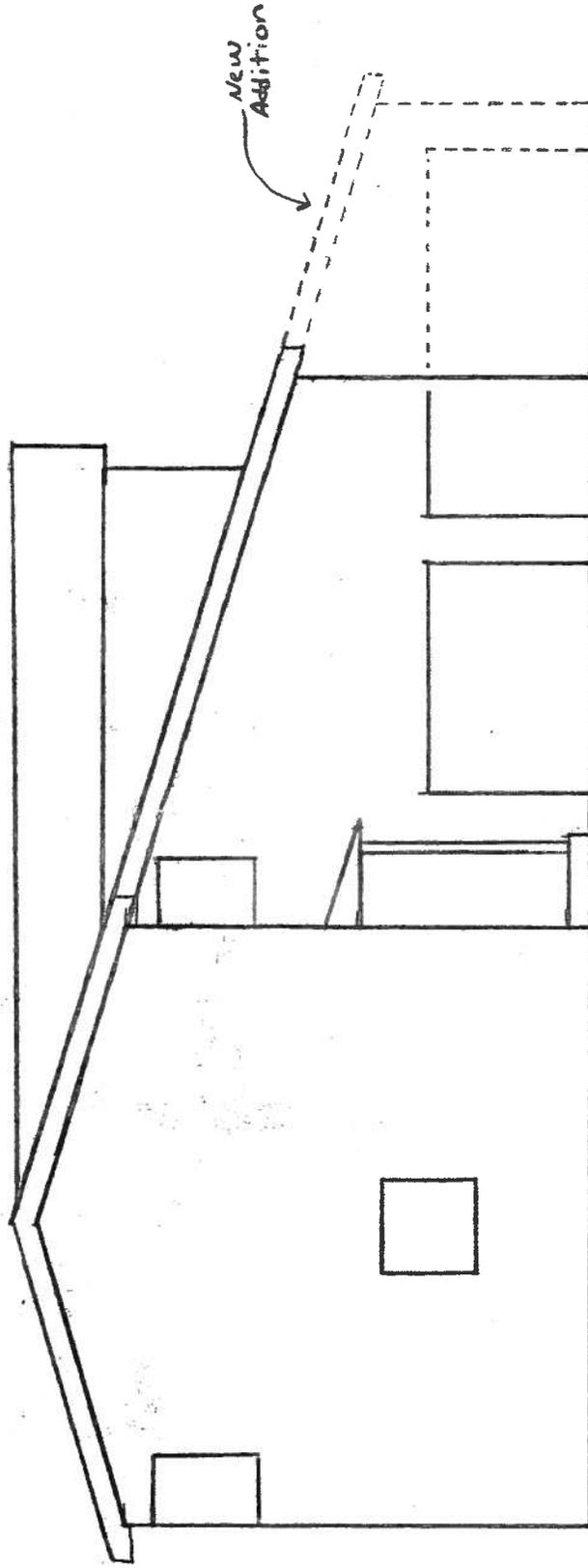
Disclaimer:
 This map does not represent a survey or legal document and is provided on an "as is" basis. City of Portage expresses no warranty for the information displayed on this map document.

We the undersigned acknowledge that we have been made aware of the request for variance and garage remodeling which is to take place at 2728 East Shore Drive, Portage, MI 49002. Further, with full understanding of the plans, and consideration for the impact upon the surrounding properties, we indicate by signing this form that we do not object to the granting of the variance or the construction which will follow.

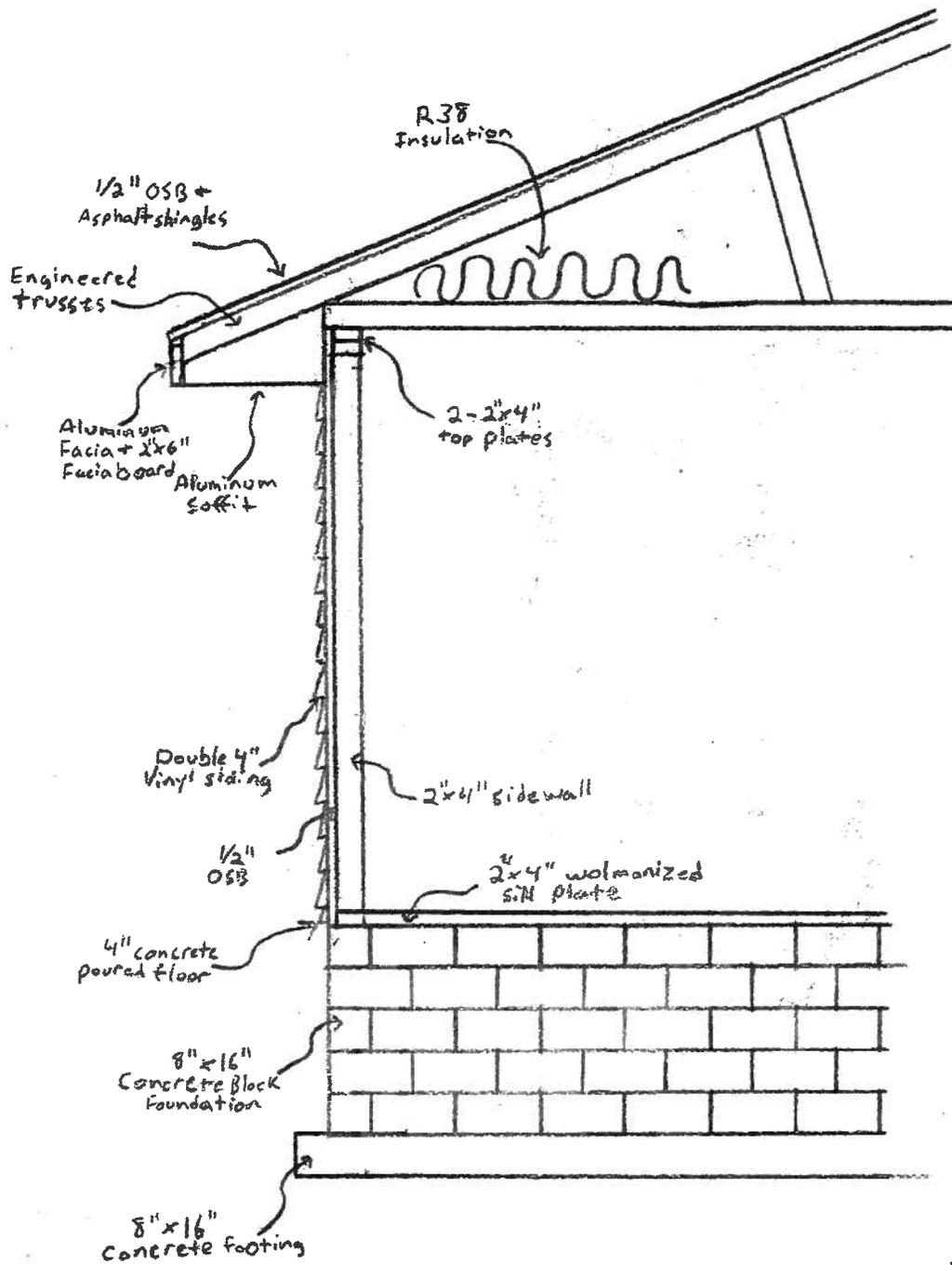
NAME	ADDRESS	PHONE NUMBER	SIGNATURE
<u>DAVE BERANEK</u>	<u>2719 E. Shore Dr.</u>	<u>365-1698</u>	<u>D. Beranek</u>
<u>RICK HESSE</u>	<u>2802 E. SHORE DR.</u>	<u>327-4245</u>	<u>Rick Hesse</u>
<u>Scott Gignac</u>	<u>2722 E. Shore Dr.</u>	<u>830-9476</u>	<u>Scott Gignac</u>
<u>Tamara Ludwig</u>	<u>2803 E. shore DR.</u>	<u>903-6148</u>	<u>Tamara Ludwig</u>
_____	_____	_____	_____
_____	_____	_____	_____



Kushenbuch
Front Elevation
2728 East Shore dr
C+E Construction
Scale 1/8" = 1 ft



Kuchenbuch
Side Elevation
2728 East Shore Dr
C+E Construction
Scale 1/8" = 1' ft



Kuchenbuch
Cross section
2728 East Shore Dr.
C + E Construction
Scale 3/8" = 1 foot

TO: Zoning Board of Appeals **DATE:** September 28, 2012
FROM: Vicki Georgeau, ^{VA} Director of Community Development
SUBJECT: ZBA #12-12; Joseph Kuchenbuch, 2728 East Shore Drive; R-1A, One Family Residential

CODE SECTION: 42-350(A) Schedule of Regulations; p. CD42:84
42-623(C)(5) Board Decisions; p. CD42:140.4

APPEAL: Requesting: a) a decision that there is a change of circumstances subsequent to a variance denial on August 20, 2012; and b) a variance to construct a 10-foot by 24-foot garage addition 24 feet from the front (north) property line, where a minimum 27-foot front yard setback is required.

STAFF RECOMMENDATION:

The applicant's request (ZBA #12-03) for a variance to construct a 12-foot by 26-foot garage addition 22 feet from the front (north) property line was denied during the special meeting held on August 20, 2012 (see attached minutes and staff report). During the hearing, the Board inquired if the applicant would consider modifying the proposed garage addition to include a double door design so a lesser variance would be needed. The applicant responded no. The applicant has since reconsidered and now proposes to construct a 10-foot by 24-foot garage addition 24 feet from the front (north) property line, utilizing the suggested double door design. Additionally, the applicant is providing revised information to the Board, and indicates the existing (and newly proposed addition) side-entry garage is 24 feet deep, as opposed to the 26 feet indicated in the previous application materials.

Concerning request a), Section 42-623(C)(5) states "*no application which has been denied wholly or in part by the board shall be resubmitted for a period of one year from the date of the last denial, unless permitted by the board after a demonstration by the applicant of a change of circumstances from the previous application.*" Based on the revised garage design, increased setback from the front property line, and revised information, it is recommended the Board make a finding that the new request constitutes a change of circumstance and consider the applicant's revised request b).

It is acknowledged the applicant has reduced the size of the addition to the minimum necessary. As noted in the August 13, 2012 staff report, no practical conforming alternatives are available to construct a third garage stall on the property due to the interior layout, design and location of the existing garage. If the Board finds a practical difficulty exists, the variance may be approved.

PRACTICAL DIFFICULTY:

Side-entry garage design and protection of property noted by applicant. None noted by staff. See Suggested Motion form.

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Special Meeting – August 20, 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. Four people were in the audience.

MEMBERS PRESENT: Timothy Bunch, Rob Linenger, Doug Rhodus, Lowell Seyburn, Michael Robbe, Mariana Singer, and Glenn Smith.

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator and Randy Brown, City Attorney

NEW BUSINESS:

ZBA #12-03, 2728 East Shore Drive: Staff summarized the request for a variance to construct a 12-foot by 26-foot garage addition 22 feet from the front (north) property line, where a minimum 27-foot front yard setback is required. Mr. Joseph Kuchenbuch stated they have two teens who will soon be driving and that the side-entry garage configuration creates difficulties with backing out into the driveway. The applicant stated the proposed garage addition would make it easier to back out onto the driveway without having other vehicles in the driveway to bump into. Linenger inquired if the applicant had considered a lesser variance and converting the existing single stall door to a double door design. The applicant stated they wanted to keep the proposed design consistent with the existing garage design. Linenger inquired if they considered pouring a driveway addition in the same location as the proposed garage to assist with backing out. The applicant stated they felt their proposal was preferable aesthetically. Singer inquired how the applicant's practical difficulty differed from neighboring properties. Mr. Kuchenbuch stated they had a side-entry garage, that most other properties along East Shore had vacant land across the street where they did not, and noted that other houses on the lake had three stall garages. Bunch inquired of staff if a variance would be necessary for a driveway extension in the same location as the proposed garage. Staff stated no.

A public hearing was opened. A letter stating no objection to the request signed by: Dave Beranek, 2719 East Shore Drive; Rick Hesse, 2802 East Shore Drive; Scott Gignac, 2722 East Shore Drive; and Tamara Ludwig, 2803 East Shore Drive, was read into the record. The public hearing was closed.

A motion was made by Smith, seconded by Robbe, to grant a variance to construct a 12-foot by 26-foot garage addition 22 feet from the front (north) property line, where a minimum 27-foot front yard setback is required. The practical difficulties being the ability to house three vehicles and reduction of parking along the street. Upon roll call vote: Bunch-No, Rhodus-No, Robbe-Yes, Seyburn-No, Singer-No, Smith-Yes, Linenger-No. Motion failed 5-2.

A motion was made by Singer, seconded by Seyburn, to deny a variance to construct a 12-foot by 26-foot garage addition 22 feet from the front (north) property line, where a minimum 27-foot front yard setback is required, as there are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the zoning district. 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. Upon Roll call vote: Bunch-Yes, Rhodus-Yes, Robbe-No, Seyburn-Yes, Singer-Yes, Smith-No, Linenger-Yes. Motion passed 5-2.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:41 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator

TO: Zoning Board of Appeals **DATE:** August 13, 2012

FROM: Vicki Georgeau, ^{VG} Director of Community Development

SUBJECT: ZBA #12-03; Joseph Kuchenbuch, 2728 East Shore Drive; R-1A, One Family Residential

CODE SECTION: 42-350(A) Schedule of Regulations; p. CD42:84

APPEAL: Requesting a variance to construct a 12-foot by 26-foot garage addition 22 feet from the front (north) property line, where a minimum 27-foot front yard setback is required.

STAFF RECOMMENDATION: The 10,944 square-foot lakefront property is improved with a two-story 2,744 square-foot dwelling and a 576 square-foot attached garage. The property is zoned R-1A, One-Family Residential and is surrounded by single family residences.

The dwelling currently has a two-stall, side-entry garage. The applicant proposes to construct a 12-foot by 26-foot third stall addition, which would extend to within 22 feet of the front (north) property line, where a 27-foot setback is required. A variance is therefore requested.

The applicant indicates the proposed garage addition would have a similar front setback to other properties in the neighborhood. The applicant further indicates that granting the variance would allow parking of all cars in the garage, making the driveway available for guests, eliminating the need to park along East Shore Drive. Most other dwellings in the vicinity meet the required front yard setback with the exception of 2802 and 2818 East Shore Drive. The dwelling located at 2802 East Shore Drive received a variance in 1992 (ZBA #92-18) to allow reconstruction of a nonconforming garage 21 feet from the front property line, and 2818 East Shore Drive received a variance in 1970 (ZBA #70-10) permitting construction of a garage 25 feet from the front property line.

No practical conforming alternatives are available to allow construction of a third garage stall on the subject property. An approximate four-foot wide and six-inch high raised concrete slab extends the length of the garage interior along its south side (consistent with the front porch stoop to the house), which precludes shifting the existing garage bay doors south so as to accommodate a lesser variance for a third stall. The desire to have a three stall garage in and of itself does not constitute a practical difficulty. However, if the Board finds a practical difficulty exists, the variance may be approved.

PRACTICAL DIFFICULTY: Alleviate parking along East Shore Drive noted by applicant. None noted by staff. 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:

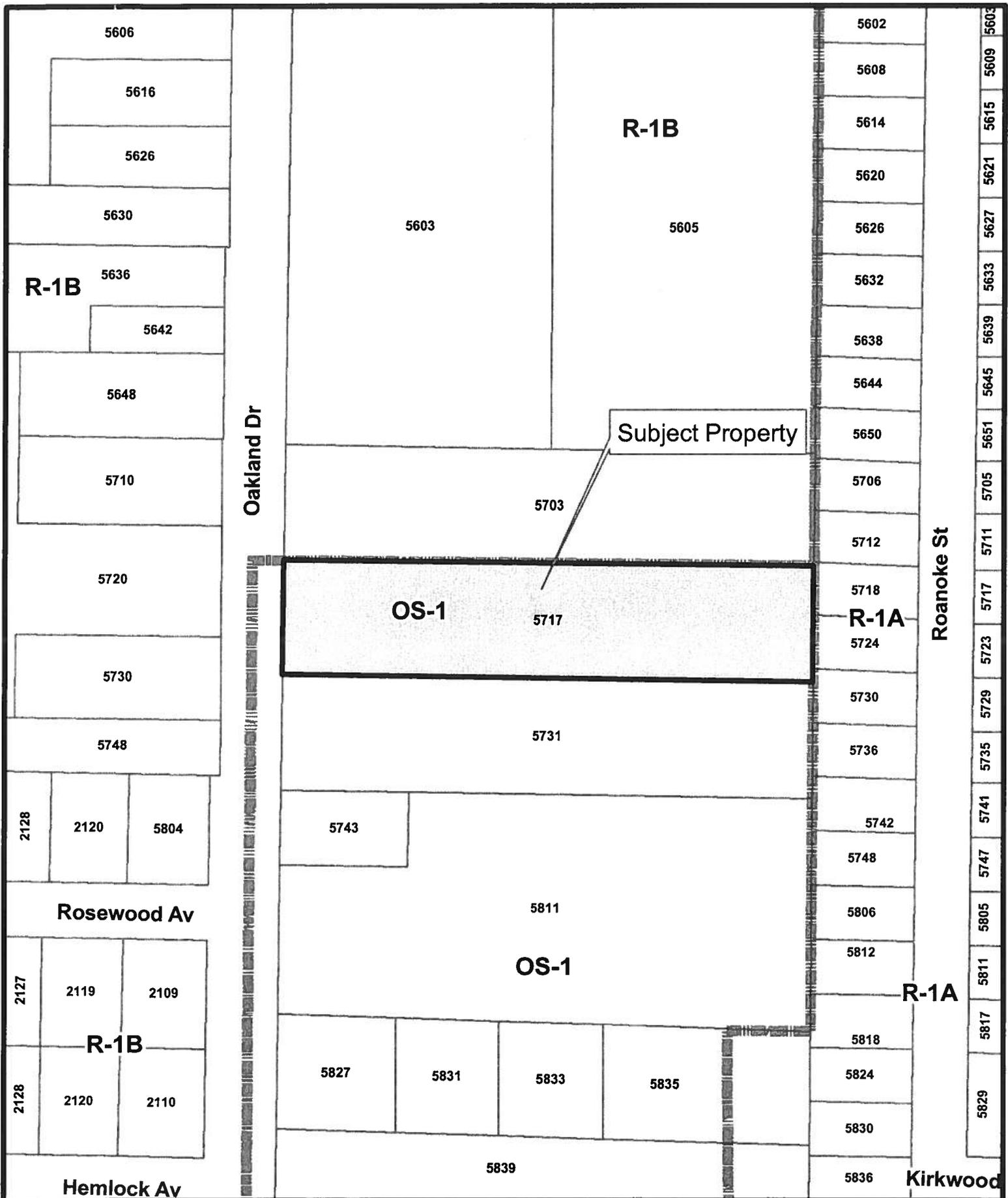
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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

ZBA 12-13

5717 Oakland Drive



1 inch = 150 feet

RECEIVED
SEP 20 2012
COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 9/17/12 (OSTERHOUT PROPERTIES LLC)
 Name of Applicant STEVEN OSTERHOUT Steve Osterhout
Print Signature
 Applicant's Address 8150 MOONSBIDGE RD PORTAGE Phone No. 373-4473
 Name of Property Owner (if different from Applicant) OSTERHOUT PROPERTIES LLC
 Address _____ Phone No. _____

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

Street Address 5717 OAKLAND DRIVE
 For Platted Property: Lot 10 of PRAIRIE ACRES Plat _____

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

Applicant's interest in Property that is the subject of this Application: OWNER

Application Fee _____ (Residential Uses) \$ 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 573 Section 42 Paragraph A
 Regarding Use SCREENING Area _____ Yards _____

Setbacks _____ Parking _____ Other SCREENING FOR CONFLICTING LAND USE

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

_____ Appeal of Administrative Decision: Article _____ Section _____ Paragraph _____

Reason for Request: _____

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

Reason for Request: _____

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

Article _____ Section _____ Paragraph _____

Reason for Request: _____

FOR STAFF USE

Application Number:	Filing Date:	Tentative Hearing Date:
Previous Application Filed Regarding This Property:		

Reason For Variance

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)

SEE THE ATTACHED SHEET

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

SEE THE ATTACHED SHEET

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

SEE THE ATTACHED SHEET

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

SEE THE ATTACHED SHEET

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

SEE THE ATTACHED SHEET

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.)

SEE THE ATTACHED SHEET

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

SEE THE ATTACHED SHEET

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

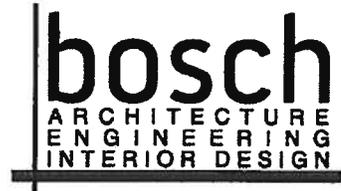
SEE THE ATTACHED SHEET

Steven R. Bosch

Signature of Applicant

9-17-2012

Date



September 20, 2012

Mr. Mike West
City of Portage
7900 S. Westnedge
Portage, MI 49002

RE: Dr. Osterhout Clinic

The following items are in reference to the Zoning Board of Appeals Application Sheet #2 "Reasons For Variance"

1. The ordinance addresses conflicting land use. The screening on the north and south cannot be achieved.
2. Yes the physical characteristics on the north are unique with the wide expanse of field and the church being located in a residential zoned parcel. The south property line is going to have a shared drive for access into both parcels. The drive will be centered on the property line with the maintenance and cost being shared by both parcels.
3. The use to the north is a church and the future land use plan notes that parcel to be office use. Therefore even though the land is zoned residential it is currently not being used for that nor will it be in the future according to the Future land use plan. The property to the south is zoned OS-1 which is consistent with the subject parcel but the south parcel is being used as a residence. The South property owner sold the subject parcel to Dr Osterhout, and has agreed to the shared drive and access. Screening should not be required.
4. The parcel to the north is a church/office use, and the parcel to the south is a short term residential use with agreements for shared access roads split on the property.
5. The parcel to the north is a church/office use, and the parcel to the south is a short term residential use with agreements for shared access roads split on the property.
6. The shared access drive will be consistent with the City of Portage access management plan. The one curb cut on the busy Oakland drive will serve multiple office buildings in the future, and also control the traffic flow and circulation.
7. The use to the north is a church and the future land use plan notes that this parcel will be office use. Therefore even though the land is zoned residential it is currently not being used for that nor will it be in the future according to the Future land use plan. The property to the south is zoned OS-1 which is consistent with the subject parcel but the south parcel is currently being used as a residence. The South property owner sold the subject parcel to Dr Osterhout, and has agreed to the shared drive and access. We are in a transitional phase of development for this area. The requirement of Conflicting use in this case does not make sense for all the parties involved.
8. The intent of the ordinance with respect to Conflicting use Screening is to protect and screen less intense zoning districts from adjacent higher intensive zoning and uses. In this case the parcel to the north (church) is already being a more intensive use to the proposed office use. The parcel to the south (residence) is in an Office zoned district and is a Legal non-conforming use within that district. The owner of the property is in his 90's, and is in agreement of the development of the subject property and the shared access road split on the property line.

Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Steven R. Bosch".

Steven R. Bosch
President

11074 2012-09-20 ZBA request.docx

September 24, 2012

Mr. Mike West
City of Portage
7900 South Westnedge Ave.
Portage, MI 49002

RE: Dr. Steven Osterhout Clinic (Osterhout Properties LLC)

Dear Mike,

We understand that Dr. Osterhout is asking for a variance to the zoning ordinance for Conflicting land use screening. We support Dr. Osterhout in his appeal for a variance concerning the Conflicting land use screening ordinance on the north and south sides of his property located at 5717 Oakland Drive.

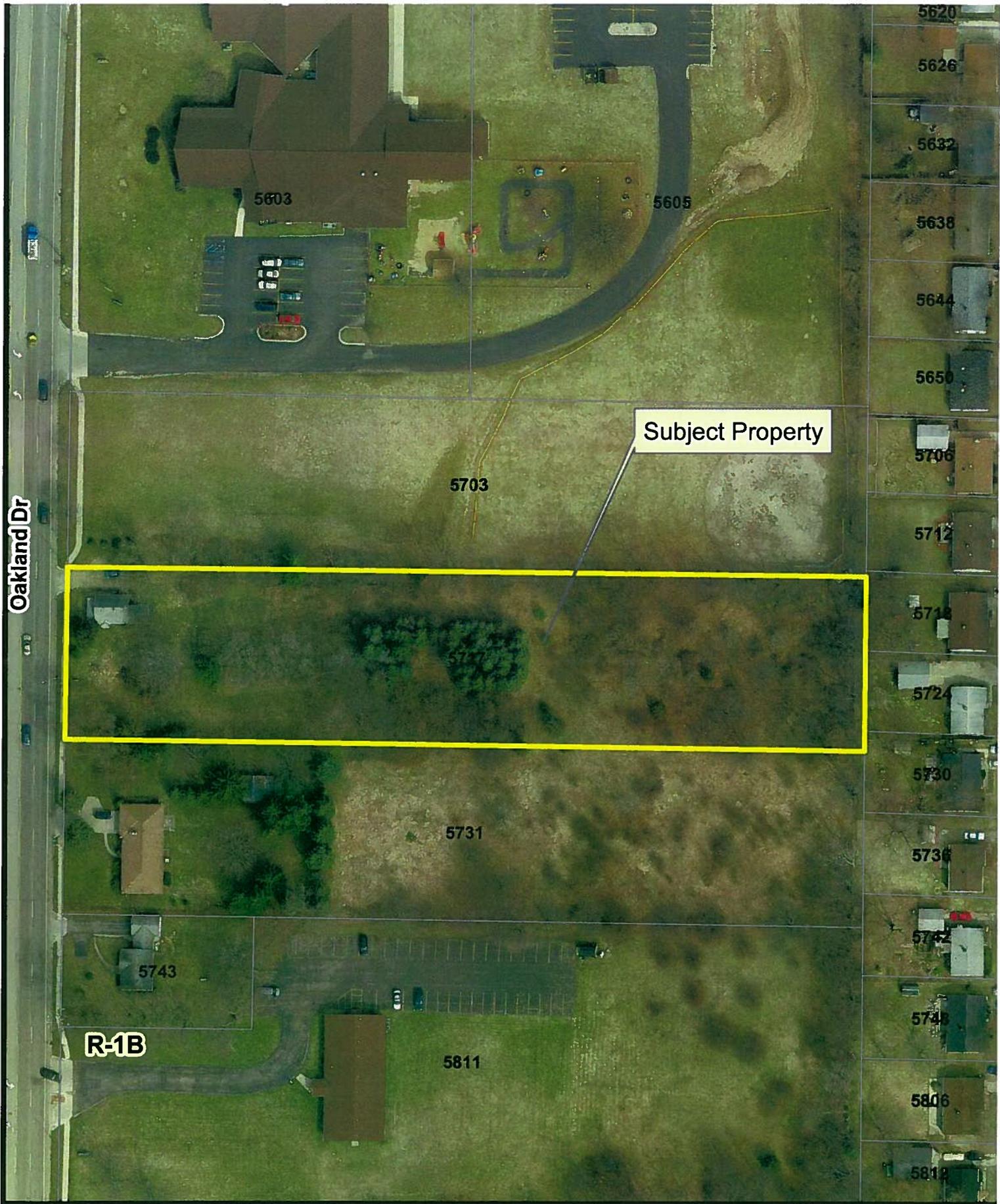
The shared drive on the south will benefit both adjacent parties and should not require screening now or in the future.

The use to the north is currently being used as a church field, but could in the future be office or more church buildings. The residential aspect of all these sites will not happen in the future, therefore no screening should be required.

Should you have any questions, please feel free to contact me.

Sincerely,

*Ann Bremer
5731 Oakland Drive
Portage*



 Subject Property

Aerial Photo: March 2009

Aerial Photo 5717 Oakland Drive



1 inch = 100 feet

TO: Zoning Board of Appeals **DATE:** September 28, 2012
FROM: Vicki Georgeau, ^{VJ} Director of Community Development
SUBJECT: ZBA #12-13; Osterhout Properties, LLC, 5717 Oakland Drive; OS-1, Office Service
CODE SECTION: 42-573.C; Conflicting Land Use Screening; p. CD42:134

APPEAL: Requesting a variance from the conflicting land use screening requirements along the north and south property lines in conjunction with a new office development project.

STAFF RECOMMENDATION:

The applicant has requested the variance per the enclosed application, supporting materials and site plan. The vacant 2.0 acre zoning lot is zoned OS-1, office service and located along the east side of Oakland Drive, between I-94 and West Milham Avenue. A nonconforming single family residence previously located along the northwest portion of the site was razed in 2010. The property to the north and south is also zoned OS-1, office service.

The applicant is proposing to construct an approximate 5,700 square foot office building and associated parking lot and related improvements on 5717 Oakland Drive (refer to the attached preliminary site plan). A nonconforming single family residence (5731 Oakland Drive) borders the site to the south, while the parcel to the north at 5703 Oakland Drive is zoned R-1B, one family residential and owned by the First Church of Nazarene (Cross Community Church). Section 42-573.C of the Zoning Code requires installation of conflicting land use screening between a nonresidential development and abutting properties that are either zoned or used for residential purposes. Minimum conflicting land use screening requirements between the nonresidential use and the adjacent residential use and/or zoning district include a 6-foot tall opaque screen such as a fence or wall, and a 10-foot wide green strip and deciduous tree plantings every 30-feet.

The applicant is requesting a variance from the conflicting land use screening requirements along the north and south sides of the site. While 5731 Oakland Drive is occupied by a nonconforming single family residence, future office redevelopment is planned for this property. As shown on the attached site plan and consistent with access management requirements, the new commercial driveway is intended to be shared between 5717 Oakland Drive and 5731 Oakland Drive and is partially located on each parcel. Also, the property owners have entered into Shared Access Easement and Maintenance Agreement regarding this driveway. Construction of this driveway along the shared property line prevents the installation of conflicting land use screening along the south ten feet of 5717 Oakland Drive.

The applicant is also requesting a variance from the conflicting land use screening requirements along the north property line of 5717 Oakland Drive. While installation of conflicting land use screening is possible, the parcel to the north (5703 Oakland Drive) is an essentially vacant 2.0 acre property, with a softball field located along the eastern portion of this parcel, while the main church building and associated parking lot is located on the adjacent properties to the north (5603 and 5605 Oakland Drive).

While 5703 Oakland Drive is zoned R-1B, one family residential, the applicant notes future development of this parcel involving residential land uses is unlikely given the church ownership and Future Land Use Map designation of office for this section of Oakland Drive between West Milham Avenue and I-94. For Board information, the parsonage for the church is located on the north side of the church building.

Based on the foregoing analysis, the variances can be recommended by staff. The variances will not compromise the intent and spirit of the ordinance and will not be detrimental to adjacent properties.

PRACTICAL

DIFFICULTY: Planned redevelopment activities involving both 5717 and 5731 Oakland Drive (occupied by a nonconforming single family residential dwelling), nonresidential use of the property to the north; and Future Land Use Map designation of office for this section of Oakland Drive.

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.**