

CITY OF
PORTAGE
A Place for Opportunities to Grow

ZONING BOARD OF APPEALS

November 12, 2012

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, November 12, 2012

(7:00 pm)

Portage City Hall
Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * October 8, 2012
- * October 15, 2012

OLD BUSINESS:

- * 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 (west) property line along Frederick Drive, where a minimum 27-foot setback is required.

NEW BUSINESS:

- * ZBA# 12-14, Jerome Kamm, 3810 West Centre Avenue: requesting a variance to replace the sign panels on a nonconforming freestanding sign.
- * ZBA# 12-15, American Freight of Michigan, 501 Mall Drive: requesting a) a variance for wall signs totaling 200 square feet in area where a maximum 100 square feet is permitted, and b) a 29 square-foot variance to exceed the maximum permitted 100 square feet of wall signage on the south elevation.
- * ZBA# 12-17, Alexander Hanchar, 723 Lakeview Drive: requesting a 20-foot variance from the 40-foot minimum rear (north) yard setback, to construct a new 2,608 square-foot two-story dwelling.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

Star (*) indicates printed material within the agenda packet

CITY OF PORTAGE ZONING BOARD OF APPEALS

 DRAFT

Minutes of Meeting – October 8, 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. Five people were in the audience.

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

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

APPROVAL OF THE MINUTES: Schimmel moved and Rhodus seconded a motion to approve the September 10, 2012 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA #12-09, 2320 Ramona Avenue: Mais summarized the requests for: 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. The applicant, Mr. James Wilson, stated he did not agree with staff classifying the 120 square-foot as a shed because his grandchildren use it as a play structure. Mr Wilson explained he needed the 288 square-foot building for wood storage and for storing the lawn tractors that he restores as a hobby. Linenger inquired what accessory building(s) the applicant would be willing to remove from the property and to identify the practical difficulty. Mr. Wilson stated he is on disability and needs all the buildings for storage. Schimmel inquired why the applicant did not obtain building permits. The applicant replied he did not think permits were needed for buildings that were removable. Seyburn asked Mr. Wilson what was inside the 120 square-foot structure that the applicant identified as his grandchildren's playhouse. Mr. Wilson stated he stores tools inside the building his grandchildren like to play with. Bright inquired if any of the neighbors had any problems with the sheds. Mr. Wilson said no. Linenger stated he thought the 120 square-foot structure was a tool shed, not a playhouse. Singer inquired if "playhouse" was defined in the Zoning Code. Mais stated there is no definition of a 'playhouse' in the Zoning Code.

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

After additional discussion, a motion was made by Seyburn, seconded by Rhodus, to grant a variance for the combined accessory building area to exceed the ground floor living area by 108 square feet, conditioned upon: 1) removal of the existing 288 square-foot shed within 150 days, and 2) the 10-foot by 12-foot playhouse and 7-foot by 7-foot playhouse be moved to ensure that at least 10 feet of building separation exists between the play structures and any other building within 150 days, for the following reasons: there are exceptional circumstances applying to the property that do not apply generally to other properties in the zoning district which include an older nonconforming home that does not have adequate storage space; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to have reasonable storage area; the variance will not be detrimental to adjacent property and the surrounding neighborhood, and the variance will not 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 action of the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Seyburn-Yes, Bright-Yes, Schimmel-Yes, Singer-No, Linenger-No, Rhodus-Yes. Motion passed 5-2.

ZBA #12-10, 1622 Forest Drive: Mais summarized the request for 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. Since the applicant was not present, Seyburn moved and Rhodus seconded a motion to postpone the hearing until the November 12, 2012 meeting. Upon voice vote motion passed 7-0.

ZBA #12-11, 701 East Milham Avenue: Mais summarized the request for a variance to replace the sign panels on a nonconforming freestanding sign. Melissa Ray stated the new owner simply wants to replace

the sign panel with no alterations to the sign structure to identify AbraXas. Bright inquired if they had to replace the entire sign structure with a conforming sign how much would it cost. Ms. Ray stated twenty to thirty thousand dollars. Seyburn stated he was surprised that the Zoning Code only permits a 48 square-foot sign for a site that has significant public street frontage.

The public hearing was opened. Gary Wager, 5936 Concord Street stated the subject sign looks brighter now than it used to and he and his neighbors would not want to see a larger sign. Seyburn inquired if the city had any illumination standards for signs. Mais stated there are no specific sign luminance standards; however, the Zoning Code does have general language prohibiting signs from glaring or shining onto adjacent residences. Bunch inquired if the applicant would be willing to turn the sign lights off between 10 p.m. and 6 a.m. The applicant responded they would be willing to accommodate the neighbors and turn the sign lights off at night. The public hearing was closed.

A motion was made by Seyburn, seconded by Bright, to grant a variance to replace the sign panels on a nonconforming freestanding sign, conditioned upon the sign lighting be turned off between the hours of 10 p.m. and 6 a.m. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include having 1300 feet of frontage; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify the new owner which is similar to that possessed by other properties in the same zoning district and vicinity; 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: Bunch-Yes, Schimmel-Yes, Seyburn-Yes, Singer-Yes, Linenger-Yes, Rhodus-Yes, Bright-Yes. Motion passed 7-0.

ZBA #12-12, 2728 East Shore Drive: Mais summarized the request for: 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. Attorney Bear advised the Board needed to compare the present application materials with the previous submittal in determining whether or not a change of circumstance has occurred.

A motion was made by Bright, seconded by Seyburn to make the finding that there has been a change of circumstances. Upon voice vote the motion passed 7-0.

Tina Kuchenbuch explained they revised their plans and decided they could utilize a double door garage design. The applicant noted their practical difficulty was the topography sloped down towards the lake and this determined where the house was originally constructed on the lot, including the garage being in close proximity to the front property line. Ms. Kuchenbuch stated they neither constructed the house, nor the side-entry garage but still needed protection from the elements and security. The applicant produced a diagram which depicted how turning movements out of the garage are executed. The applicant also showed photographs of other houses on East Shore Drive that are closer to the front property line than their proposal. Linenger inquired what driveway improvements were planned. Ms. Kuchenbuch stated they would only be widening the driveway directly in front of the proposed stall, as a mature tree in the yard prohibits much widening.

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

A motion was made by Bright, seconded by Bunch to grant 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. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the sloping lakefront lot and the orientation of the garage that prevents construction of an addition in a conforming location, the variance is necessary for the

preservation of a substantial property right, the right to protect their cars from the elements, 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 #12-13, 5717 Oakland Drive: Mais summarized the request for a variance from the conflicting land use screening requirements along the north and south property lines in conjunction with a new office development project. Steve Bosch, representing the property owner, was present to answer questions. Linenger noted there was existing vegetation located along the north property line. Mr. Bosch stated they intend to keep as much of it as they could but made it clear they were seeking a variance from other screening requirements as well, such as the required ten-foot green strip. Linenger inquired if some of the vegetation was on the church's property. The applicant answered yes. Bright requested clarification of the shared access drive location. Mr. Bosch explained it would be centered on the shared property between the two parcels and would provide access to future development further east.

The public hearing was opened. A letter in support of the request from the pastor of Cross Community Church of the Nazarene, 5603 Oakland Drive was read into the record. The public hearing was closed.

A motion was made by Singer, and seconded by Schimmel to grant a variance from the conflicting land use screening requirements along the north and south property lines in conjunction with a new office development project. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include the unlikelihood of future residential development; the variance is necessary for the preservation of a substantial property right, the right to ingress and egress; the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning 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:

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:45 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator

CITY OF PORTAGE ZONING BOARD OF APPEALS

 DRAFT

Minutes of Special Meeting – October 15, 2012

The City of Portage Zoning Board of Appeals special meeting was called to order by Chair Linenger at 7:00 p.m. in Conference Room #1.

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

IN ATTENDANCE: Vicki Georgeau, Director of Community Development, Jeff Mais, Zoning & Codes Administrator and Charles Bear, Assistant City Attorney

APPROVAL OF THE MINUTES: None

NEW BUSINESS:

Business Signs. Georgeau provided an introduction regarding the topic of business signs. Georgeau summarized the topics of review by the Council Sign Committee involving business signs and the desire of the Committee to obtain input from the Planning Commission and Zoning Board of Appeals members. After receiving input from the Planning Commission and Zoning Board of Appeals members, the Sign Committee will report back to City Council and further discuss the topic of business signs at the upcoming City Council retreat. Georgeau explained the intent of the sign ordinance and summarized the historical development of the ordinance and amendments that have been made over the years as well as administrative trends relating to the number of permits issued annually, Zoning Board of Appeals (ZBA) variance requests and typical sign violations. Georgeau requested input from the ZBA regarding signs (freestanding, wall and temporary signs) in general, and if there were concerns or opportunities to consider.

Bright indicated he believes the sign code is too restrictive, especially with regard to wall signs for big box retailers and freestanding signs with multi-tenant panels that are too hard to read due to small sign sizes. Bunch noted that signs with multiple panels are hard to read and some signs with electronic message displays (EMDs) may be more legible if permitted to change more frequently. Georgeau indicated a four second restriction on change in message is common and the MDOT limits sign message changes to not more than once every six seconds. Singer indicated a longer delay in sign message change seems safer. Linenger referenced the Michael's wall sign example in the draft survey and indicated the sign has too much wording to convey a useful message. Schimmel noted that many businesses have a corporate logo that is readily recognizable by most travelers and additional wording on signs is not needed. Seyburn presented a number of concerns/ideas, which included: wall sign regulations are too restrictive for big box retailers; EMD signs are the wave of the future and the city should not be too restrictive with such signs; with regard to non-conforming signs, the 5-year agreement to change a sign without a variance should be lengthened to 8-10 years so more sign owners will take advantage of this option; window signs and truck/vehicle signs seem to circumvent the intent of the sign code; and multi-tenant signs are too hard to read due to size. With regard to multi-tenant signs, Schimmel noted a better alternative may be to have the name of the shopping center instead of all the tenants, and for window signs, they are more effective when oriented to pedestrians. Seyburn indicated that if window signs are legible from the street, they are intended to attract vehicular attention as opposed to traditional window displays. Singer stated she believes the primary purpose of signs should be to identify a business location and secondly for advertising purposes. This is especially important since most signs do not include a business address. Singer also indicated she thought implementing the draft survey was a good idea to get broad input from the community. Bright indicated the city may want to permit larger EMD sign area and referenced the Horizon Bank variance request as an example. Singer noted that the 1st National Bank in the vicinity seems to do well with an identification and EMD sign panel that meets code requirements. Linenger and Bright indicated the difference may be poor visibility at the Horizon Bank. Schimmel noted many businesses ask for signs that exceed local requirements to meet corporate design specifications that do not account for local community characteristics.

Smith referenced the multi-tenant "Cara" photo in the sign Summary Guide To Business Signs and asked if there were local examples. Georgeau indicated that this example provides sign panels for large anchor tenants, but not every tenant in a shopping center and that the Southland Mall signs and Shoppes of Romence sign are comparable local examples. Smith also inquired if the city regulates people near the street holding/waving signs. Georgeau indicated no. Robbe noted it seem onerous to require sign owners to receive a variance to change a sign panel on an existing non-conforming sign. Georgeau and Bear indicated the intent was to gradually reduce the degree of nonconformity or eliminate nonconforming signs, and that a 5-year nonconforming sign agreement is an alternative to a variance. Linenger added that the Board has included a condition that permits sign panels of many nonconforming signs to be changed without additional variances from the Board, provided no structural changes to the sign are made and a sign permit is obtained from the city. Seyburn suggested the code be revised to permit such changes as a special exception versus a variance, which does not have to demonstrate a practical difficulty. Schimmel asked if sandwich board temporary signs near a building entrance are prohibited by city code, similar to other temporary signs near the road or in the road right-of-way. Georgeau indicated yes, but if such signs are only oriented and visible by pedestrians located within a development, enforcement of such sign violations has not been generally prioritized. Bright noted there should be some provision to permit "spectacular" signs, such as unique signs like the soccer complex sign photo in the Summary Guide to Business Signs or other creative, eye catching designs. Georgeau indicated that such signs are permitted to some degree because the surface area, not cubic area, is regulated by the sign code.

There being no further discussion, Georgeau thanked the ZBA members for their input regarding business signs and indicated their comments would be forwarded to City Council.

OLD BUSINESS: None

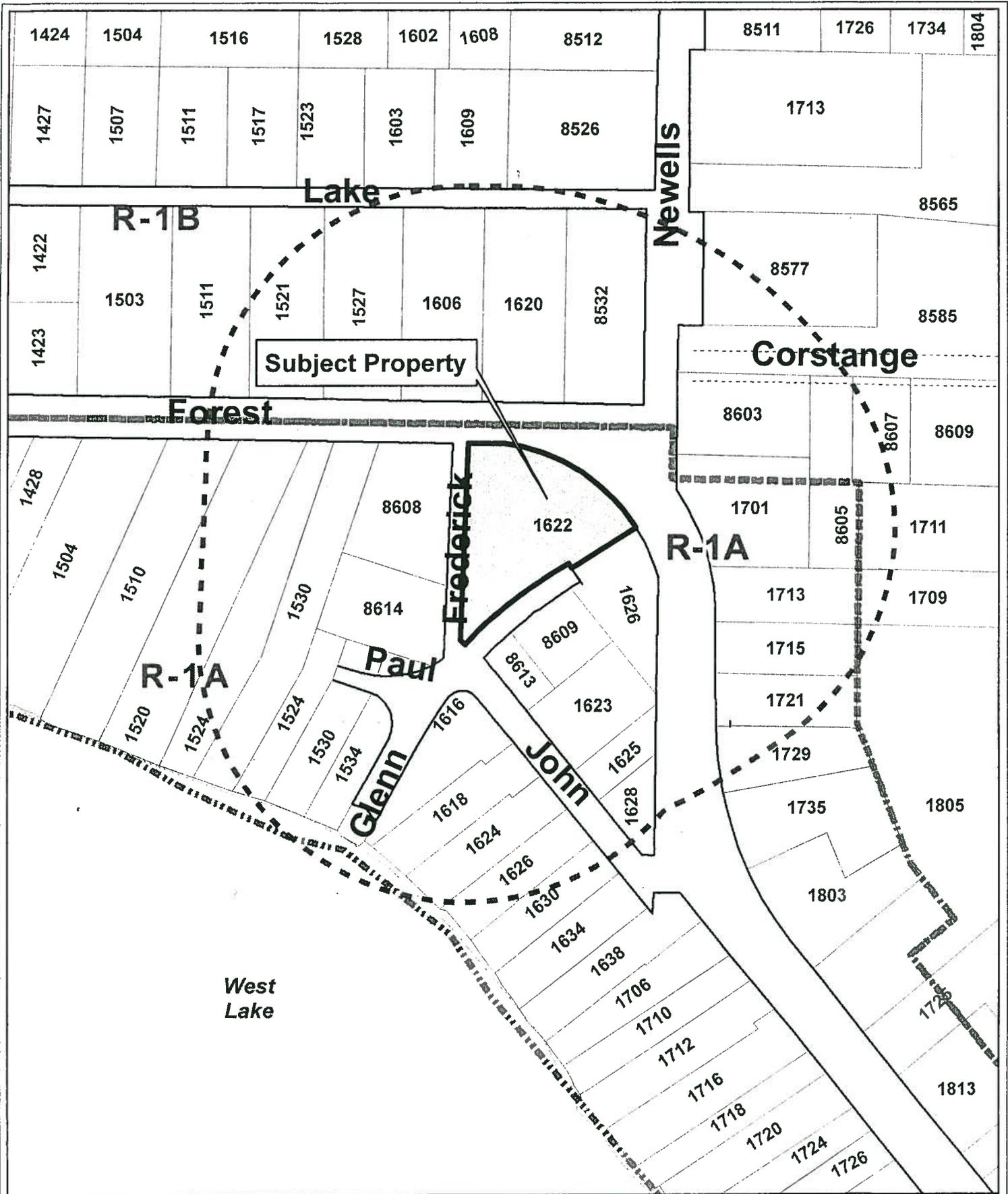
STATEMENT OF CITIZENS: None.

ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Jeff Mais,
Zoning and Codes Administrator



ZBA 12-10
1622 Forest Drive

Legend

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



1 inch = 150 feet

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 9/7/12
 Name of Applicant Ronald Sheely Ronald Sheely
Print Signature
 Applicant's Address 1622 FOREST DRIVE Phone No. 329-1693
 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

Application Number: <u>12-10</u>	Filing Date: <u>9/7/12</u>	Tentative Hearing Date: <u>10/8/12</u>
Previous Application Filed Regarding This Property: <u>NO</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.)

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

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 UNPROPORTIONED OR NOT BALANCED.

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.



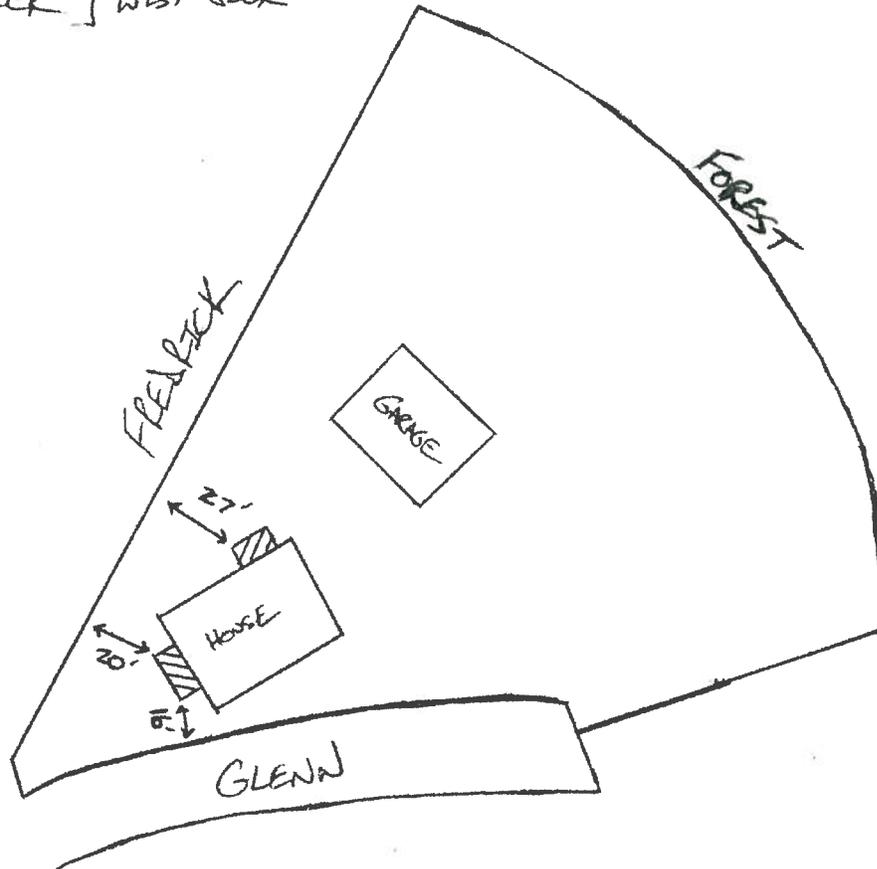
RECEIVED

SEP 21 2012

COMMUNITY DEVELOPMENT

SETBACKS

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



*NOT TO SCALE

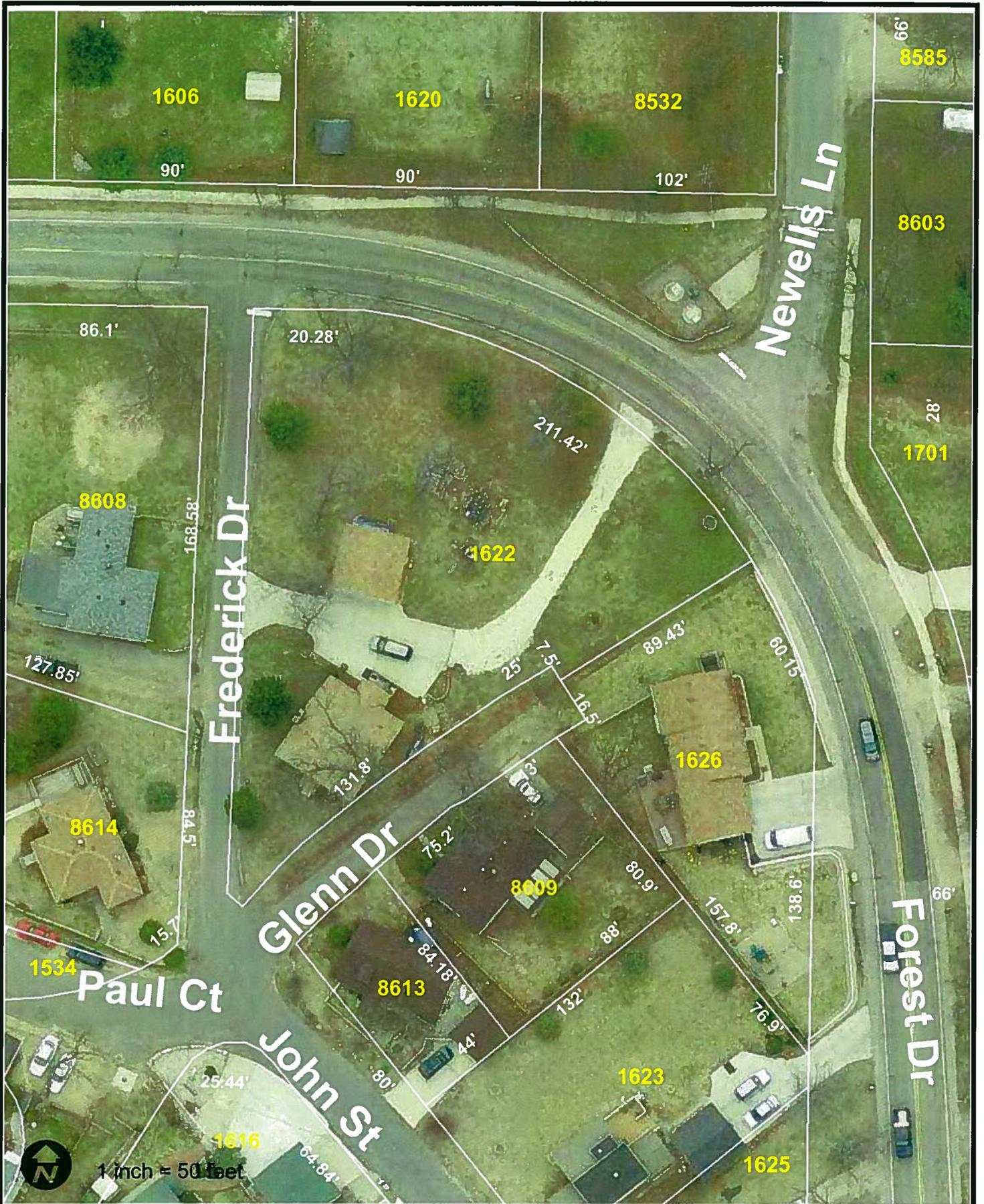
RONALD SHEELY
 1622 FOREST & R.
 PORTAGE, MI 49002





RONALD SHEELY
1622 FOREST
PORTAGE, MI 49002

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



Vicinity Map
1622 Forest Drive

Imagery: March 2009

TO: Zoning Board of Appeals **DATE:** September 29, 2012
FROM: Vicki Georgeau, 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:

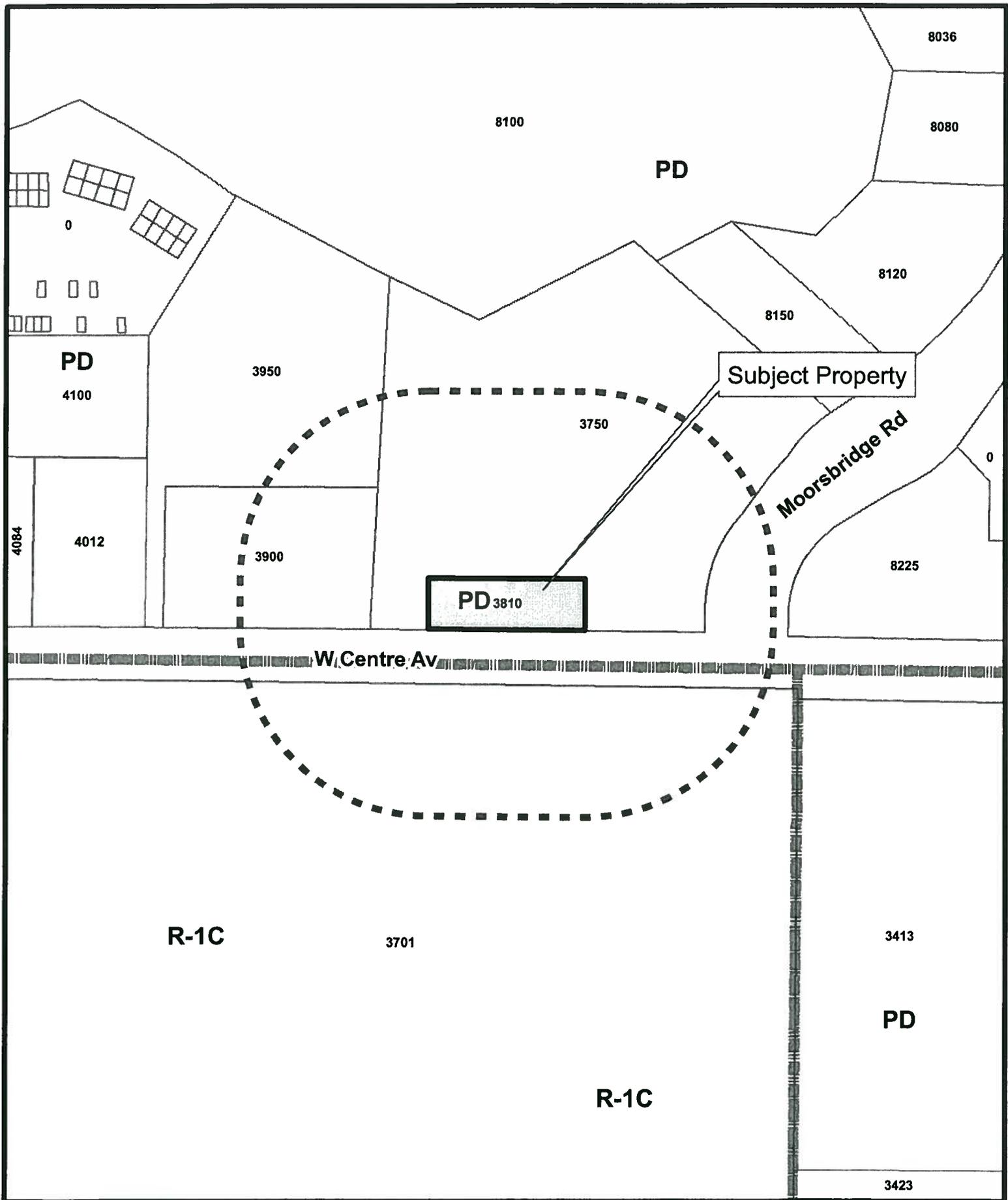
The 35,283 square-foot triangular-shaped property has street frontage on Forest Drive, Frederick Drive, and Glenn Drive, and is improved with a nonconforming 2,016 square-foot dwelling constructed in 1920, and a 576 square-foot detached garage. The dwelling is legally nonconforming because its southeast 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.



-  Zoning Boundary
-  Subject Properties
-  Notification

ZBA 12-14
3810 West Centre Avenue



1 inch = 200 feet



Aerial Photo
3810 West Centre Avenue



1 inch = 50 feet

RECEIVED

due 10/15

OCT 04 2012

CITY OF PORTAGE A Place for Opportunities to Grow

COMMUNITY DEVELOPMENT

12-1000014

Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 10/2/12

Name of Applicant Jerome Kamrn Print Signature

Applicant's Address 220 RAINTREE CIR., KALAMAZOO, MI 49006 Phone No. 269-217-9602

Name of Property Owner (if different from Applicant) Commercial II Ltd. Partnership

Address 7950 Moorsbridge Rd Phone No.

Address of the Property that is the subject of this Application: Street Address 3810 W. Centre - see attachments

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: Change sign faces in a non-conforming sign - new tenant in 3810 W Centre

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):

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

Reason for Request (Also complete page 2 of application): new sign faces in non-conforming 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 Article Section Paragraph

Reason for Request: Want to change sign faces in a non-conforming sign - Travel Focus.

FOR STAFF USE

Table with 3 columns: Application Number (12-14), Filing Date (10/4/12), Tentative Hearing Date (11/12/12). Row 2: Previous Application Filed Regarding This Property: ZBA # 10-13; 04-22; 97-37

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.)

SAME AS PRIOR VARIANCES

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

" "

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

" "

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

" "

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

" "

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

" "

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

" "

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

Need to advertise our company name on the sign - the sign is non-confirming - we need variance to use the sign space

Jerome Lamm
Signature of Applicant

10-3-12
Date



Travel Focus!

PERMANENT



RECEIVED

OCT 23 2012

COMMUNITY DEVELOPMENT

TREYSTAR™

October 18, 2012

Mr. Jeff Mais
City of Portage
Zoning Board of Appeals
7900 S. Westnedge Ave.
Portage, MI 49002
(269) 329-4476

Re: Request for permission to use a non – conforming sign at 3810 W. Centre Ave. on behalf of our tenant, Travel Focus

Dear Mr. Mais:

On behalf of Commercial II, LP, (CII) owners and managers of the building located at 3810 West Centre Avenue in Portage MI, we hereby support our tenant, Travel Focus, in its effort to obtain permission to use a non-conforming sign along Centre Ave from the city of Portage Zoning Board of Appeals (ZBA).

Thank you in advance for your consideration and please do not hesitate to call me with any questions.

Sincerely,

Fritz Brown
Vice President

TO: Zoning Board of Appeals **DATE:** November 2, 2012
FROM: Vicki Georgeau, ^{VG} Director of Community Development
SUBJECT: ZBA #12-14; Jerome Kamm, 3810 West Centre Avenue; PD, Planned Development

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 applicant requests the above variance per the enclosed application, sketches, and site plan. The property is 0.55 acres in area and is improved with a 3,421 square-foot commercial building. The property is zoned PD, Planned Development, along with the adjacent parcels. The sign is 32 square-feet in area where a 50 square-foot sign is permitted. The panel change is necessary as there has been a change in tenancy. A temporary sign permit has been issued for a "Travel Focus!" temporary panel that is currently attached to the freestanding sign. Pending Board approval of the variance request, the temporary panel will be replaced with a permanent panel.

The existing monument sign is located at the front property line. The approved location was incorporated into the 1994 West Centre Avenue reconstruction project. At that time, Kalamazoo County purchased additional right-of-way and easements, relocated the public sidewalk to curve around the existing sign, and widened West Centre Avenue. The previously conforming sign became nonconforming as a result of this project.

Variances to change the tenant panel on this sign have been approved in 1998, 2005, and 2011. The limited front yard area, the existing landscaping, the location of the existing sidewalk, and the removal/relocation of the existing monument sign present practical difficulties for the property. Staff recommends approval of the variance, with a condition that future sign panel replacements may be approved by the city administration, provided no structural changes are proposed and a sign permit is obtained.

PRACTICAL DIFFICULTY: Limited front yard area, location of existing landscaping and sidewalk. 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:

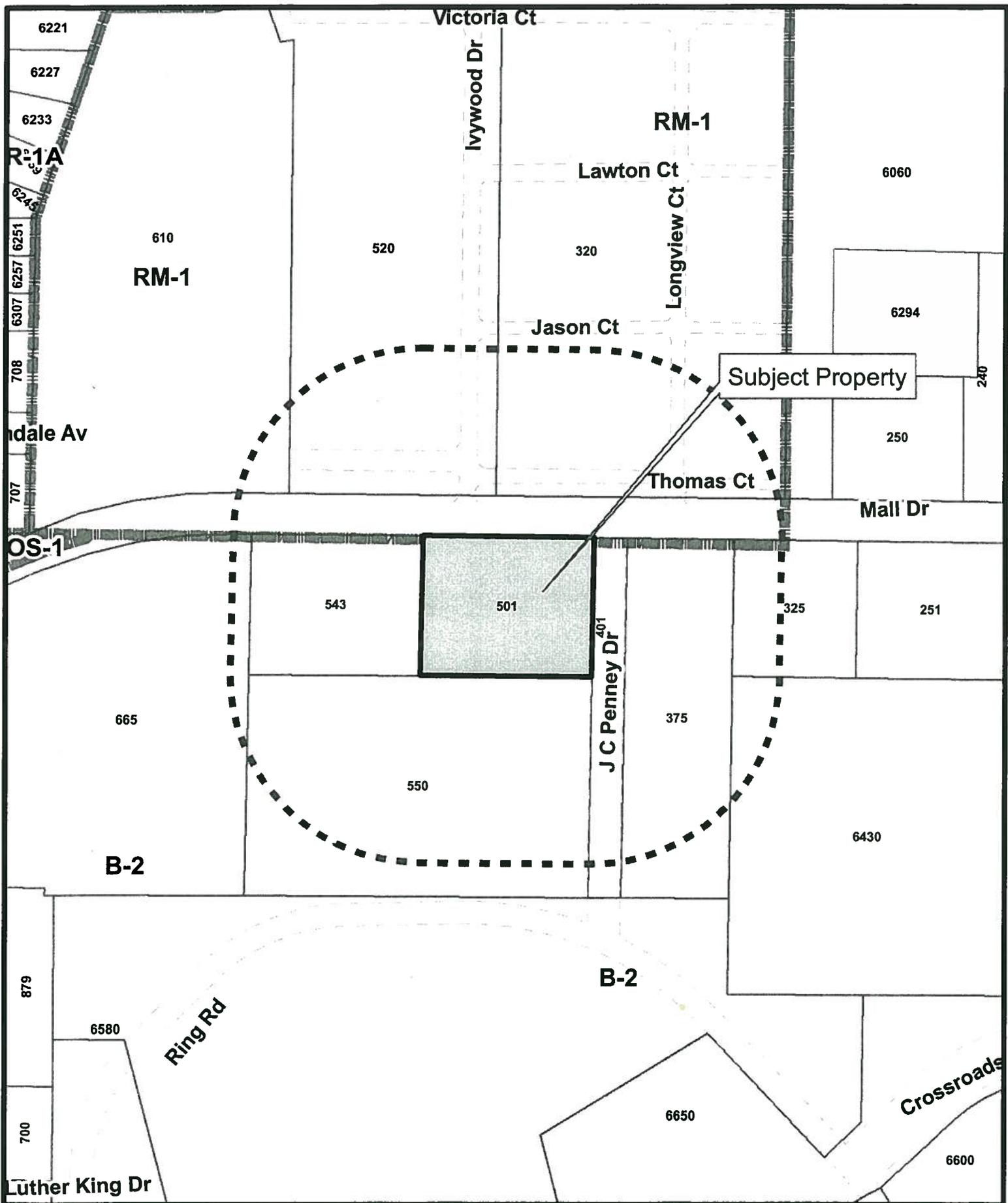
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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

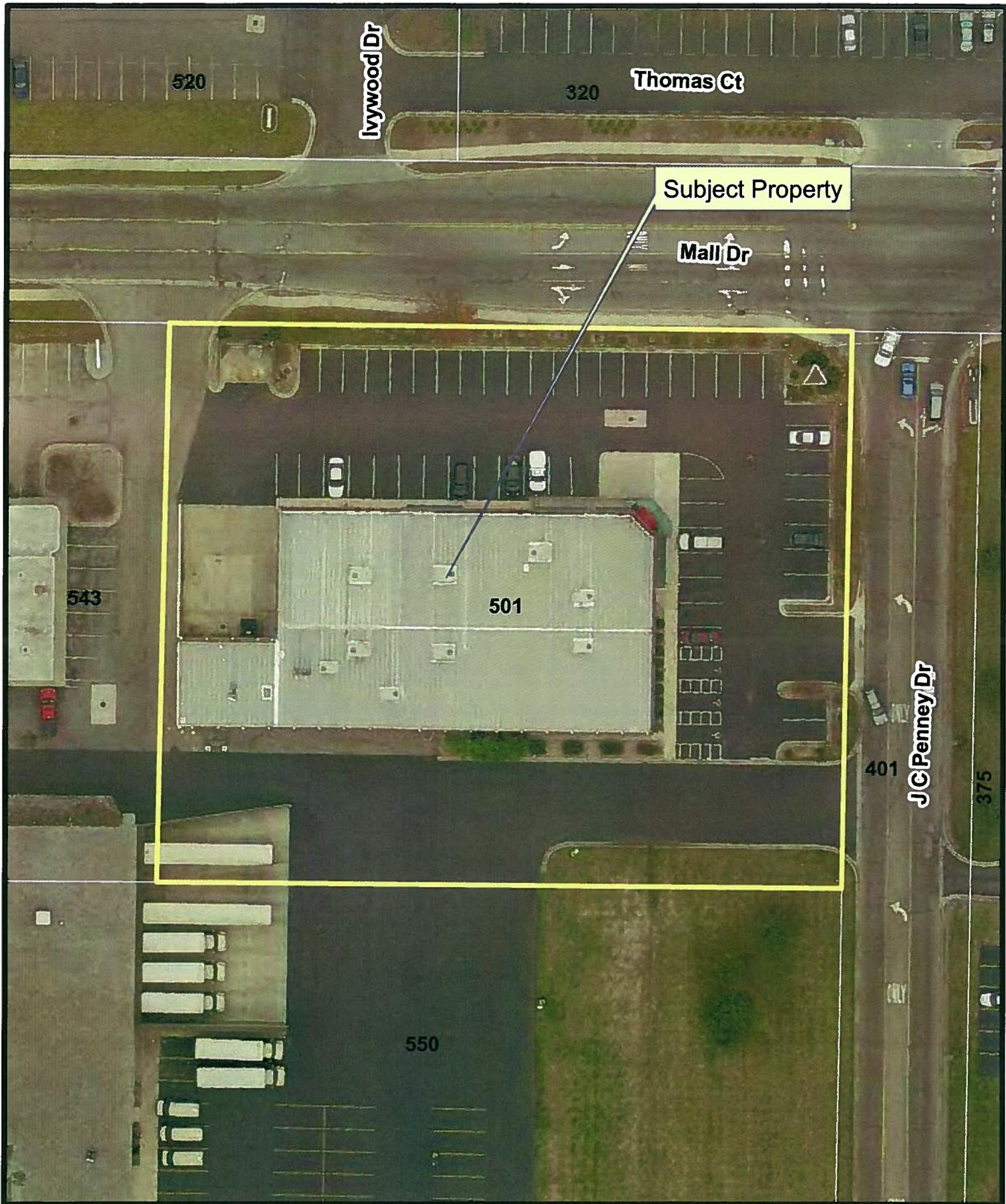


-  Zoning Boundary
-  Subject Properties
-  Notification

ZBA 12-15 501 Mall Drive



1 inch = 200 feet



**Aerial Photo
501 Mall Drive**



1 inch = 50 feet

RECEIVED

OCT 08 2012

COMMUNITY DEVELOPMENT

Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 10/07/2012

Name of Applicant American Freight of Michigan
Print

Douglas Y. [Signature]
Signature

Applicant's Address 501 Mall Dr.

Phone No. 740-704-740833-5692

Name of Property Owner (if different from Applicant) _____

Address _____ Phone No. _____

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

Street Address 501 Mall Dr.

For Platted Property: Lot _____ of _____ Plat _____

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

Applicant's interest in Property that is the subject of this Application: Territory Manager of Company

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

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

Variance from Zoning Ordinance: Article 4.6.2 Section 42 Paragraph 542

Regarding: Use _____ Area Yards _____

Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): To allow for signage greater than 100 ft²

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>12-1000015</u>	Filing Date: <u>10/8/12</u>	Tentative Hearing Date: <u>11/12/12</u>
Previous Application Filed Regarding This Property:		

Reason For Variance

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)
Visibility is compromised on public road due to required screening
Vegetation on Mall Rd.
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)
Yes. This location is on a corner and therefore also has screening
Vegetation on JC Penney Dr. which is a private access road but
is used similarly to a public road.
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
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.)
It is not the minimum necessary but in order to be fair we have
a competitor which has much larger signage next door due to
different zoning requirements and no public street access thus
creating an unlevel playing field
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 sign in question does not face a main road or any residential
areas, It is directed to the south and simply allows shoppers
a viable option for their furniture needs.
6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area. (Attach additional sheets if needed.)
This is a shopping area and all we hope to accomplish is, as a
new business in the area, to make consumers aware of our
presence
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 previous property owner had a similarly sized sign in the same
position which caused scarring to the building facade. Our sign
covers this scarring
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
The zoning ordinance exists to keep signage in the area low-key,
This sign does not face public streets therefore does not
impact the visual "noise" of the area.

Douglas R. Irons
Signature of Applicant

10-7-12
Date

RECEIVED

JUL 27 2012

COMMUNITY DEVELOPMENT



129 #

548 in

AMERICAN FREIGHT • FURNITURE - MATTRESS

34 in

120 in

AMERICAN FREIGHT FURNITURE - MATTRESS

60 in

RECEIVED
JUL 27 2012
COMMUNITY DEVELOPMENT

05 #





RECEIVED
JUL 27 2012
COMMUNITY DEVELOPMENT



Mall Drive 501 LLC

680 Sunbury Rd., Delaware, OH 43015

John Rausch, Corporate Real Estate Manager

RECEIVED

OCT 11 2012

COMMUNITY DEVELOPMENT

Portage Department of Community Development

7900 South Westnedge Ave.

Portage, MI 49002

To whom it may concern,

Please accept this letter of authorization for our tenant, American Freight Furniture represented by Regional Manager, Doug Trout, to install the sign of their choice and design at our property located at; 501 Mall Dr., Portage, MI 49024.

Please feel free to call with any questions or if you need any additional information.



John Rausch

John Rausch / Real Estate Manager
jrausch@stagecapital.com
Office - 614.236.3000 - Mobile - 740.833.5176

TO: Zoning Board of Appeals **DATE:** November 2, 2012
FROM: Vicki Georgeau, Director of Community Development
SUBJECT: ZBA #12-15; American Freight of Michigan, 501 Mall Drive; B-2, Community Business
CODE SECTION: 42-552(H); B-2 Wall Signs; p. CD42:131

APPEAL: Requesting a) a variance for wall signs totaling 200 square feet in area where a maximum 100 square feet is permitted, and b) a 29 square-foot variance to exceed the maximum permitted 100 square feet of wall signage on the south elevation.

STAFF RECOMMENDATION: The applicant requests the above variance per the enclosed application and sign sketches. The one acre zoning lot has 277 feet of street frontage on Mall Drive, and 175 feet of frontage on JC Penney Drive, a private street. The property is improved with a 14,000 square foot commercial building, off street parking lot, and associated improvements. The property is zoned B-2, Community Business and is adjacent to other commercial properties to the east, south and west, and an apartment complex across the street to the north.

As background, the applicant's sign contractor erected a 129 square-foot wall sign on the south elevation, a 50 square-foot wall sign on the north elevation, a 21 square-foot (awning) sign at the building's main entrance, and a 64 square-foot freestanding sign prior to the issuance of permits. The freestanding sign conforms, however the wall signs exceed the maximum allowed 100 square feet. As noted, the property has frontage on both public and private streets. However, per Section 42-542(G), no wall sign area is allotted for private street frontage unless a lot has no frontage on a public street.

Concerning request a) the Board has granted prior wall sign variances (La-Z-Boy, 500 Romence Road, and Cole-Gilmore, 6600 South Westnedge Avenue) for properties that have both public and private street frontage providing access to the Crossroads Mall property. In these cases, the Board cited that the private drives function like public streets which is a unique characteristic that presents practical difficulties. With regard to this request, JC Penney Drive looks and functions as a public street, and were it designated a public street, the applicant would qualify for an additional 100 square feet of wall signage based on the area of the east elevation. As a result, the variance can be recommended.

Concerning request b), Section 42-552(H) states wall signs may not exceed 100 square feet per frontage and lots with dual frontage may not combine permissible sign area to create a larger sign on one wall. The applicant notes a nearby competitor (Art Van) at 550 Mall Drive has larger wall signs than the subject request. The Board granted variances for wall signs at 550 Ring Road prior to amendments to the Code in 2003 and the Art Van wall signs are legally nonconforming. The building at 501 Mall Drive is setback approximately 80 feet from Mall Drive and 83 feet from JC Penney Drive. Visibility of the building south elevation is good and a practical difficulty has not been demonstrated. With regard to request b), the variance is not recommended.

PRACTICAL DIFFICULTY: Private street functions as public right-of-way. See Suggested Motion form.

SUGGESTED NON-USE VARIANCE MOTION FORM

Mr. Chairman:

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

be:

a. granted for all of the following reasons:

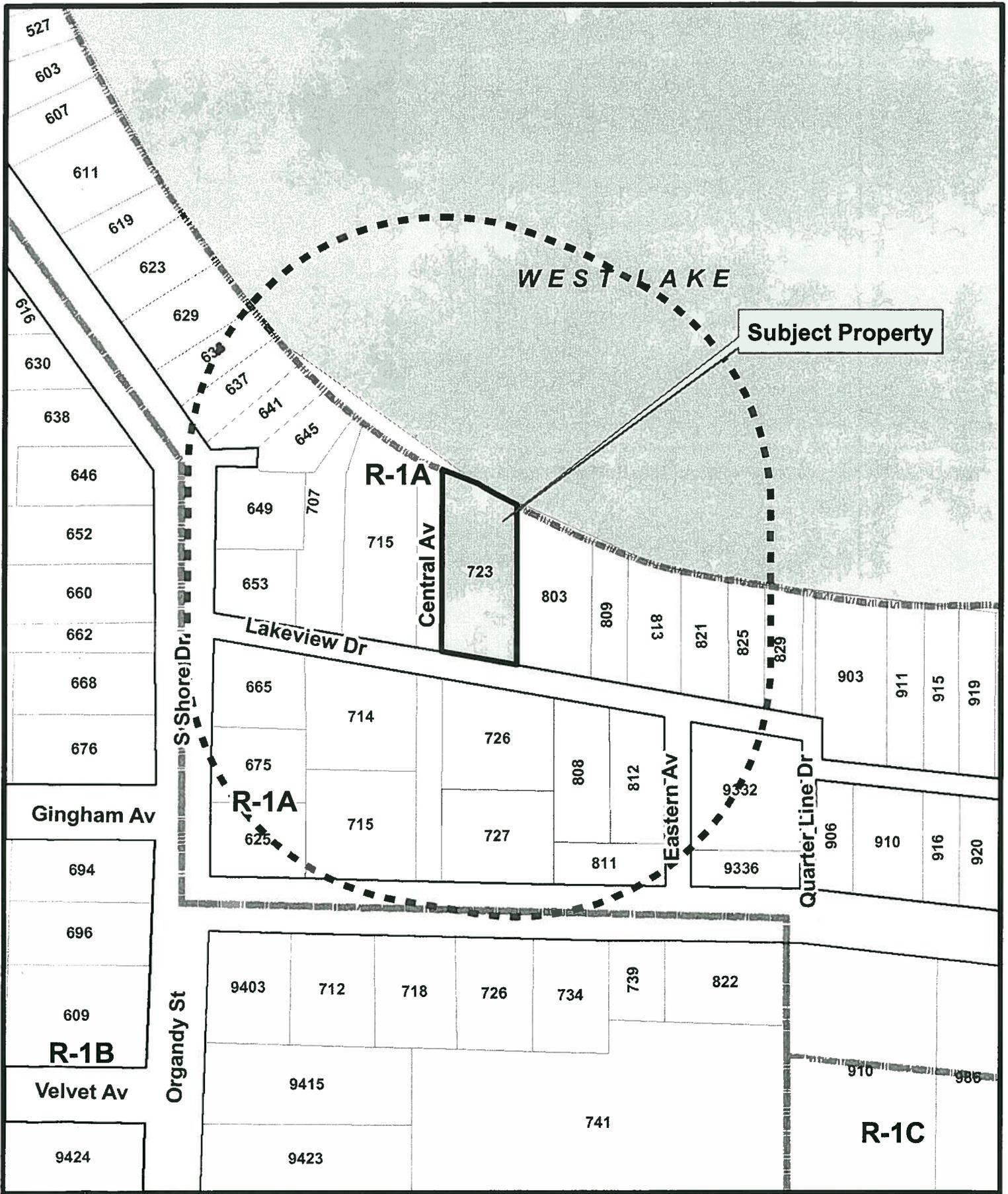
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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

-OR-

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

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

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



-  Zoning Boundary
-  300' Notification Boundary
-  Subject Property

ZBA #12-17
723 Lakeview Drive


 1 inch = 150 feet



**Aerial Photo
723 Lakeview Drive**



1 inch = 76 feet

RECEIVED

OCT 15 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 October 15, 2012

Name of Applicant Alexander Hanchar
Print

Alexander Hanchar
Signature

Applicant's Address 723 Lakeview Drive

Phone No. 269-352-5819

Name of Property Owner (if different from Applicant) _____

Address _____ Phone No. _____

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

Street Address _____

For Platted Property: Lot 8+9 of Burr's West Lake Resort Plat

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

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

Application Fee \$135⁰⁰ (Residential Uses) _____ (All Other Uses)

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

Variance from Zoning Ordinance: Article 42 Section 350 Paragraph A

Regarding: Use _____ Area _____ Yards _____

Setbacks Parking _____ Other _____

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

Appeal of Administrative Decision: Article _____ Section _____ Paragraph _____

Reason for Request: _____

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

Reason for Request: _____

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

Article _____ Section _____ Paragraph _____

Reason for Request: _____

FOR STAFF USE

Application Number: <u>12-17</u>	Filing Date: <u>10/15/12</u>	Tentative Hearing Date: <u>11/12</u>
Previous Application Filed Regarding This Property: <u>CBA # 11-08</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.)

see attached

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

see attached

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

see attached

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

see attached

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

see attached

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

No change in use

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

see attached

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

see attached

Alexander Hancher
Signature of Applicant

10/15/2012
Date

Alexander and Linda Hanchar
723 Lakeview Drive
Portage, MI 49002
October 24, 2012

City of Portage
Zoning Board of Appeals

Zoning Variance Request:
Requesting 37' Setback from Water's Edge,
Not from Property Line

RECEIVED
OCT 25 2012
COMMUNITY DEVELOPMENT

This is our second request of the Zoning Board of Appeals. On November 14, 2011, the Board approved our request for a 12-foot rear yard variance to construct a new home (Exhibit A, Agenda) (Exhibit B, Minutes). Our current home on West Lake is 82 years old (Exhibit C, Existing Site Plan). It was (and still is) our wish to demolish it and build a new home on the same footprint. Our neighbors have been contacted and none object. Since the 2011 Zoning Request, our proposed site plan has been redesigned for retirement (aging-in-place style) with a smaller main floor and even smaller second floor than the plan submitted in the 2011 Zoning Variance Request (Exhibit D, Proposed Site Plan).

In preparing our Building Permit Application, we discovered that measurement points identified in our 2011 request had surprisingly been changed without our knowledge in communications going to the Board in advance of the November 14, 2011 meeting. In our Zoning Variance Request submitted on October 10, 2011, we asked for consideration of a variance of 12 feet in the setback between the house and the LAKE LINE (Exhibit E, Zoning Variance Request). The Staff Recommendation letter to the Board, dated November 4, 2011, inadvertently recommended approval of the variance between the house and the PROPERTY LINE (Exhibit F, Staff Recommendations).

The Staff Recommendation letter to the Board also reported that "In the case of lakefront properties in Portage, the lot boundaries in most plats extend to the shoreline or water's edge..." Our plat "... is unusual since it has a dedicated 10-foot wide private walk between the rear property line and water's edge." "The City Attorney has advised under these circumstances that the platted rear lot line serves as the point from which the rear setback is determined." (Exhibit F, Staff Recommendations).

We were unaware that the setback measuring points given to the Board before the meeting were not the measuring points we had requested in our application. We were not notified of this change. Therefore, we did not understand that the result of the Board's approval would place our new home far behind the footprint of our current home, and position it behind other homes along this portion of West Lake.

Please note that Alex has been an amateur astronomer for most of his life. For over 30 years he has been viewing the night sky 4-5 times a week from our current home, from an area he calls

his "dark spot". This cement pad sits just outside our door on the rear side of the house. It is the darkest place we have to view the night sky. Our neighbor's house to the east blocks the neighborhood lights and street lights from that direction, and trees to the west block distracting light from that direction.

Without a variance, Alex would lose his "dark spot", resulting in light pollution interfering with his ongoing star gazing. We feel this is an undue hardship since the proposed site plan is no less conforming than the existing site plan and the proposed site plan is consistent with setbacks of neighboring homes (Exhibit G, Adjacent Neighboring Setbacks).

We do not want to sit behind neighboring houses. And we are not asking to be closer to the water than we are today. However, we would like to build our new house at approximately the same footprint as our current house (Exhibit C, Existing Site Plan). And we would like to continue star gazing from Alex's "dark spot". These can be accomplished with a 37' setback measured from the LAKE LINE.

We greatly appreciate your consideration of this Request.

Respectfully submitted,

Alexander J. Hanchar

Linda F. Hanchar

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, November 14, 2011

(7:00 pm)

**Portage City Hall
Council Chambers**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * October 10, 2011

NEW BUSINESS:

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

STATEMENT OF CITIZENS:

ADJOURNMENT:

Materials Transmitted

Star (*) indicates printed material within the agenda packet

CITY OF PORTAGE ZONING BOARD OF APPEALS

 **DRAFT**

Minutes of Meeting – November 14, 2011

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

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

MEMBERS EXCUSED: Timothy Bunch

MEMBERS ABSENT: Donald Mordas

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

APPROVAL OF THE MINUTES: Felicijan moved and Seyburn seconded a motion to approve the October 10, 2011 minutes with one correction. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

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

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

A motion was made by Felicijan, supported by Singer, to grant a 12-foot variance from the 40-foot minimum rear yard setback to construct a new 3,427 square-foot two-story dwelling. There are exceptional or extraordinary circumstances or conditions applying to the property that do not generally apply to other properties in the zoning district which include a 10-foot private walkway between the rear property line and water's edge, the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and will not materially impair the intent and purpose of the zoning ordinance. In addition, the application and related materials, staff report and all discussion and additional materials presented at this hearing shall be incorporated into the record of this hearing and the findings of the Board, and action of the Board shall be final and effective immediately. Upon roll call vote: Schimmel–Yes, Singer–Yes, Linenger–Yes, Seyburn–Yes, Rhodus–Yes, Bright–Yes, Felicijan–Yes. The motion carried 7-0.

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

JOB NO. 110430

ALEXANDER HANCHAR

723 LAKEVIEW DRIVE
PORTAGE, MI 49002

BOUNDARY/TOPOGRAPHICAL
SURVEY



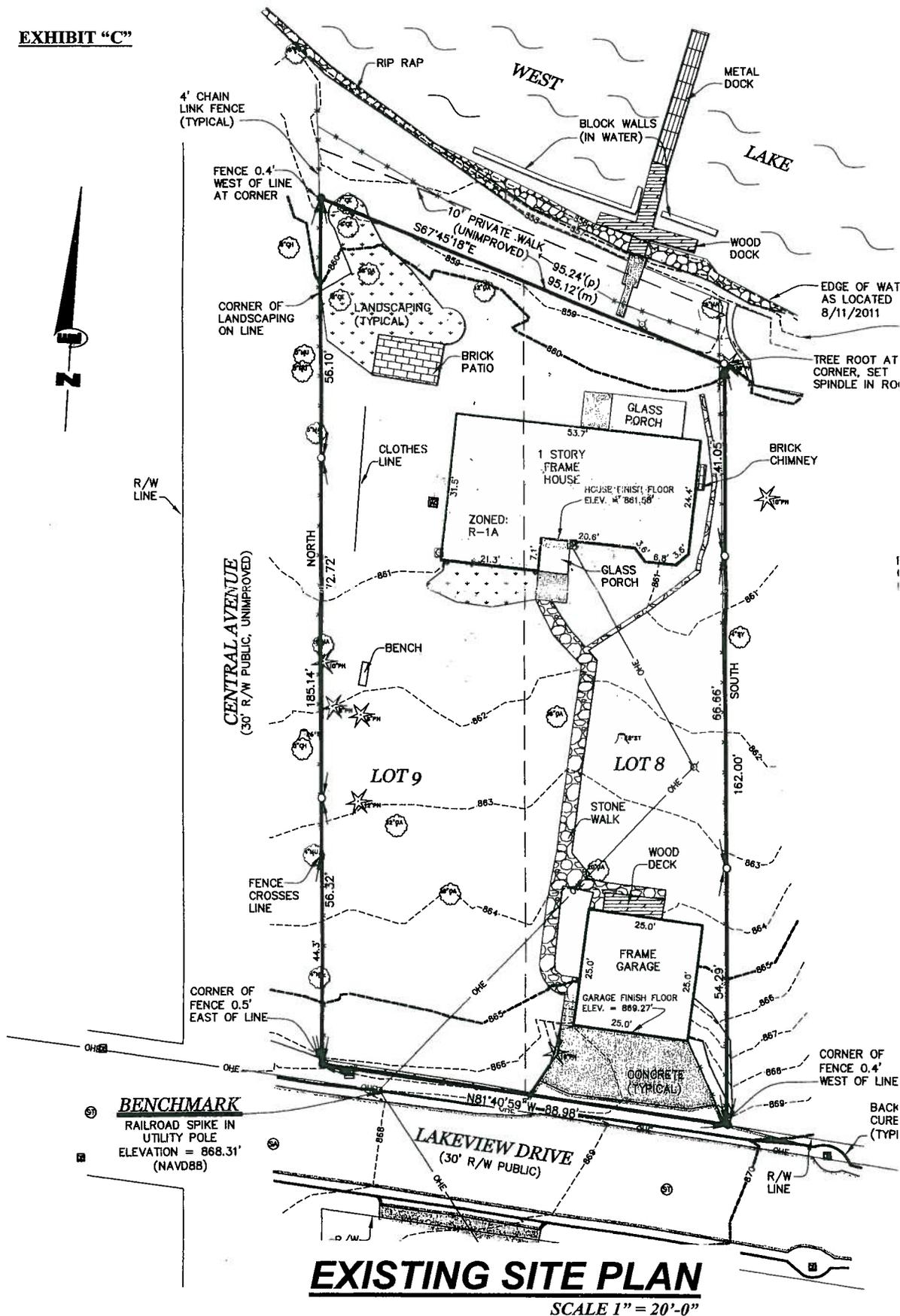
WIGHTMAN & ASSOCIATES, INC.
ENGINEERING ♦ SURVEYING ♦ ARCHITECTURE

2303 PIPESTONE ROAD
PHONE: (269) 927-0100

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

WWW.WIGHTMAN-ASSOC.COM

EXHIBIT "C"



JOB NO. 110430

ALEXANDER HANCHAR

723 LAKEVIEW DRIVE
PORTAGE, MI 49002

BOUNDARY/TOPOGRAPHICAL
SURVEY

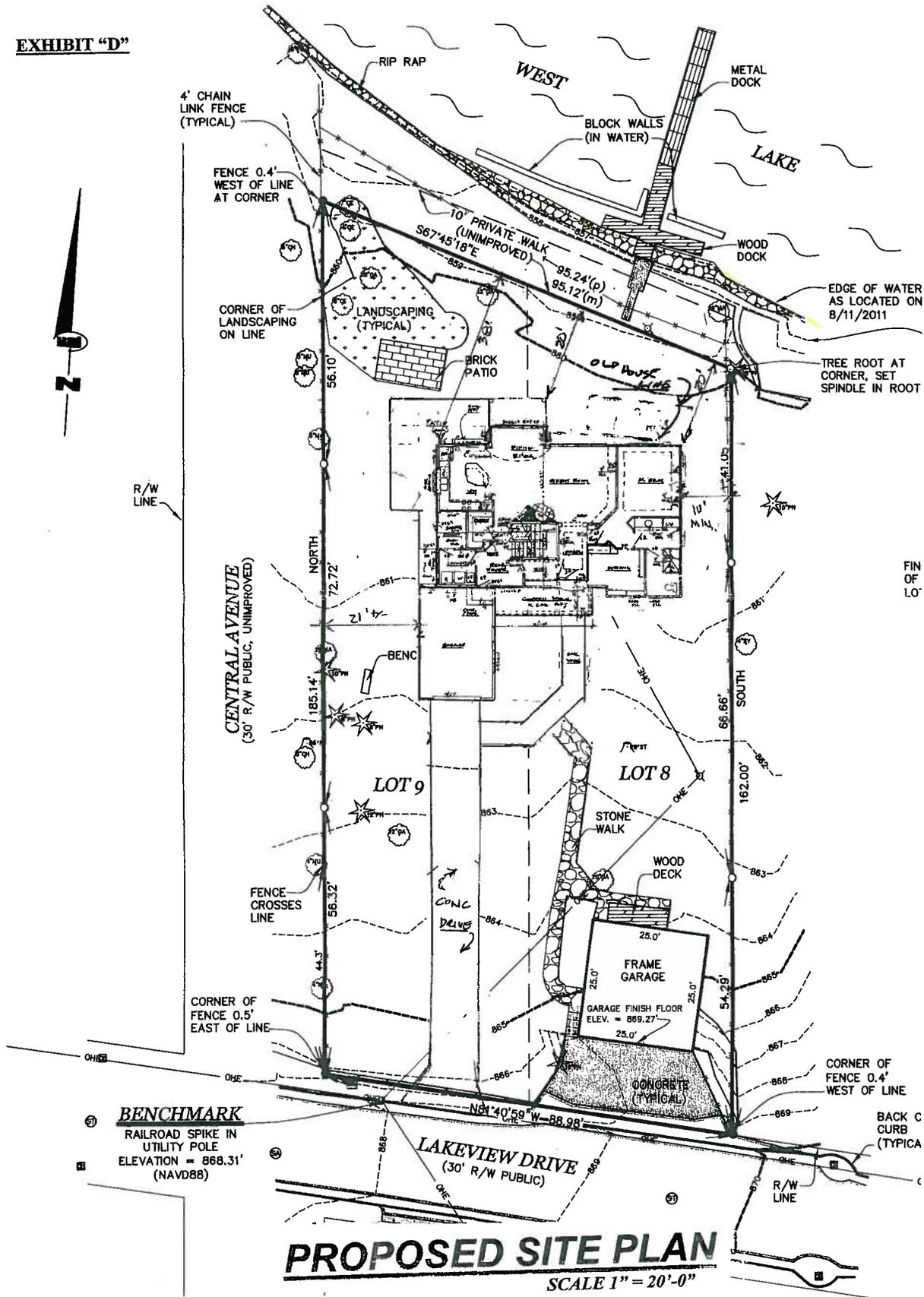
W&A WIGHTMAN & ASSOCIATES, INC.
ENGINEERING ♦ SURVEYING ♦ ARCHITECTURE

2303 PIPESTONE ROAD
PHONE: (269) 927-0100

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

WWW.WIGHTMAN-ASSOC.COM

EXHIBIT "D"



Zoning Variance Request

Alexander and Linda Hanchar
723 Lakeview Drive
Portage, MI

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

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

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

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



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

Submitted By,

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

October 10, 2011



Department of Community Development

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

**STAFF RECOM-
MENDATION:**

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

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

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

**PRACTICAL
DIFFICULTY:**

Existence of private walk along shoreline; reduction in degree of nonconformity. See Suggested Motion form.

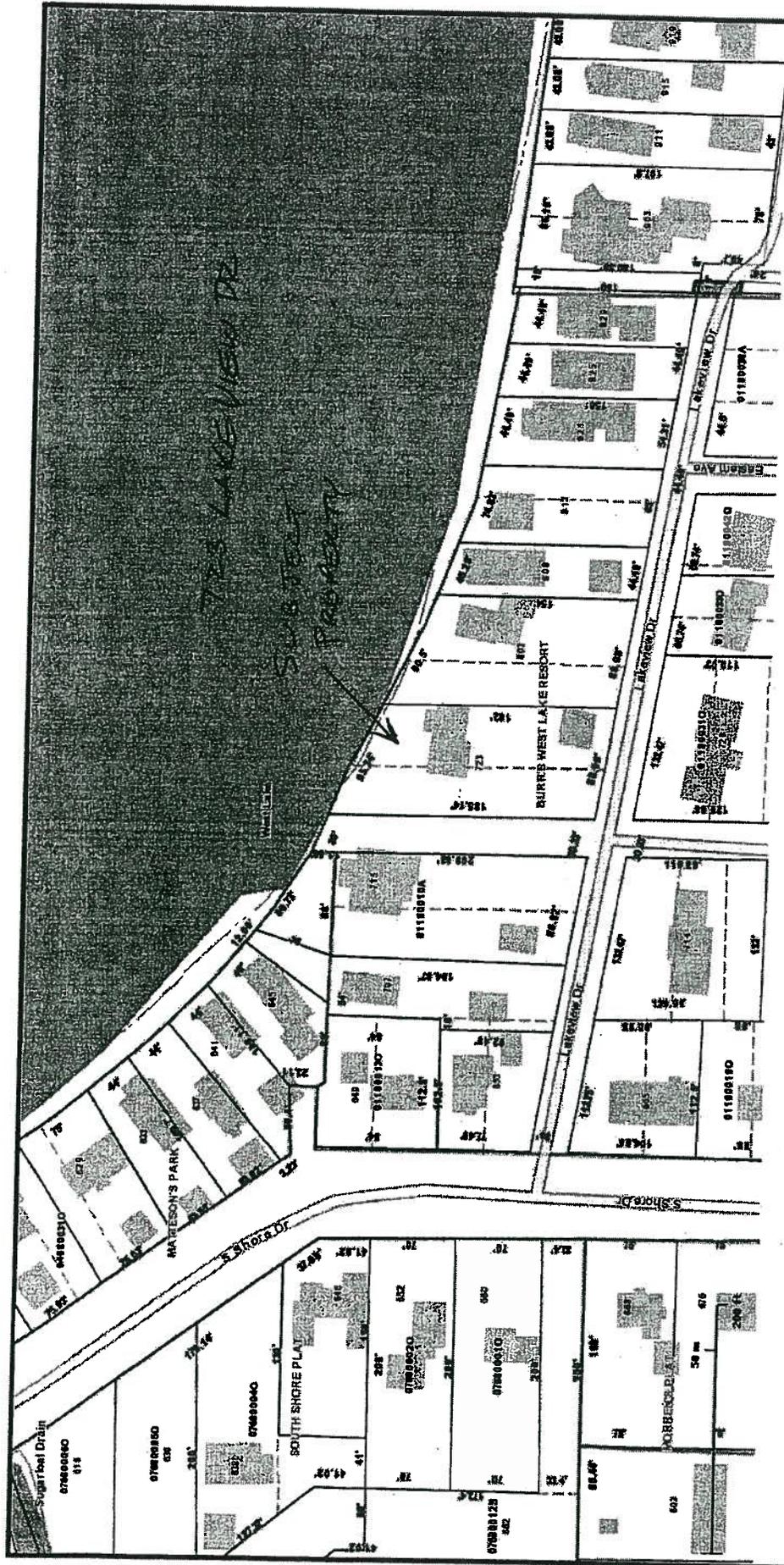


EXHIBIT "G"

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.



1:2000

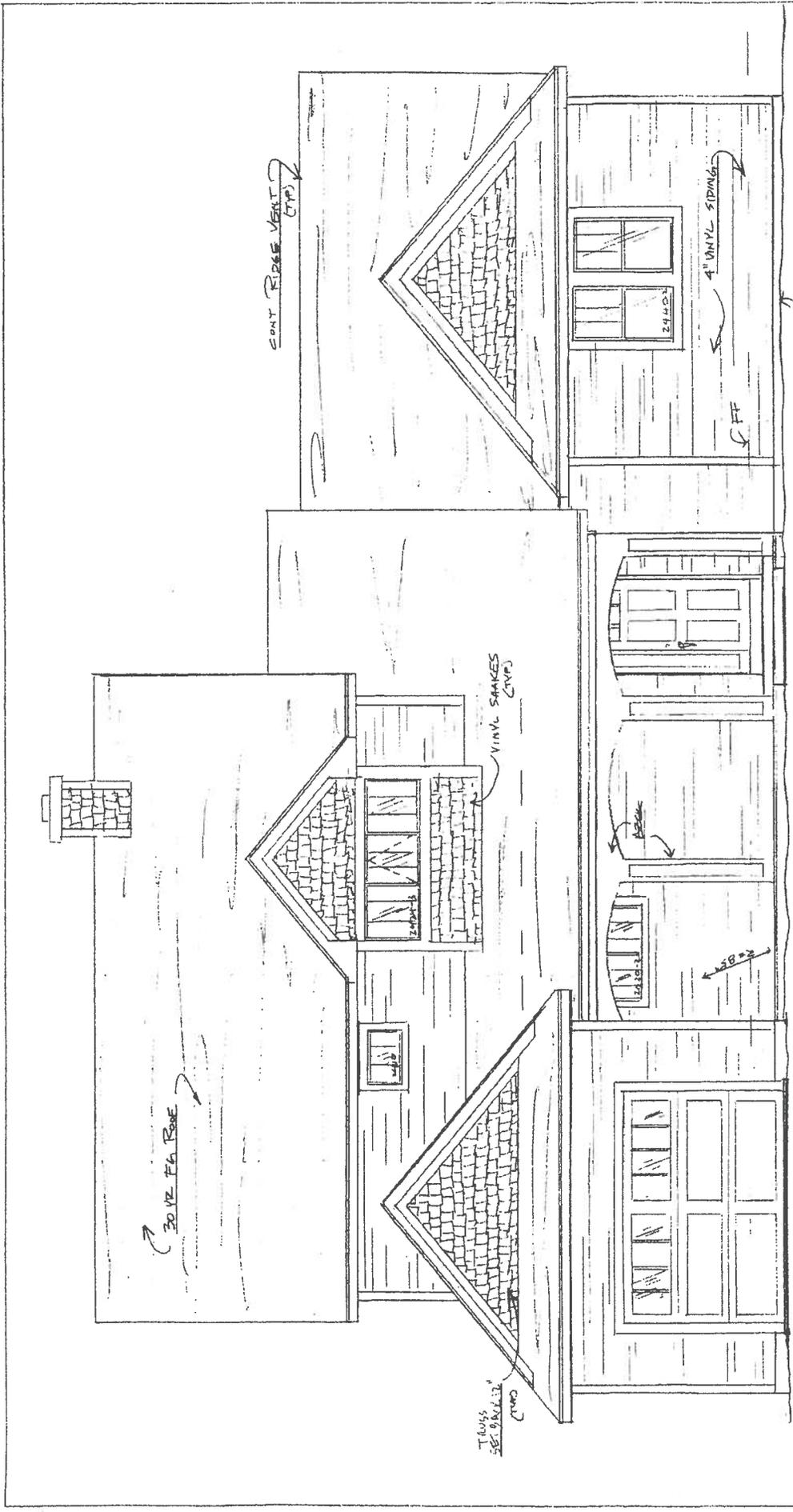
Map Publication:

Thu Oct 6 2011 01:49:03 PM

City of Portage Map Document



ROAD - SOUTH ELEVATION



FRONT ELEVATION

New Residence for:
 Alex and Linda Hanchar
 723 Lakeview
 Portage, Michigan

REV 7/9/2012
 REV 5/30/2012
 REV 6/5/2012

1/4" = 1'-0"

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KC Kozar Construction
 1290 Holiday Lane - Portage, MI
 Ph 269-383-0882

TO: Zoning Board of Appeals **DATE:** November 2, 2012
FROM: Vicki Georgeau, ^{VG} Director of Community Development
SUBJECT: ZBA #12-17; Alexander Hanchar, 723 Lakeview Drive; R-1A, One Family Residential
CODE SECTION: 42-350(A) Schedule of Regulations; p. CD42:84
APPEAL: Requesting a 20-foot variance from the 40-foot minimum rear (north) yard setback, to construct a new 2,608 square-foot two-story dwelling.
STAFF RECOMMENDATION:

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

As information, the Board approved a similar request a year ago to construct a new 3,472 square foot dwelling 28 feet from the north (rear) property line. The applicant was unable to construct the dwelling last year and the variance has since expired. The applicant has submitted revised plans to construct a smaller 2,608 square-foot two-story dwelling to be located 20 feet from the rear (north) property line and 37 feet from the nearest point of the legally established lake level for West Lake. The proposed dwelling location would comply with all other required setback distances.

The applicants indicate they were unaware that the 2011 variance request was determined using the rear (north) property line instead of the legal 856-foot lake level, and that their intention was to request a larger rear setback variance than what was approved. It is noted that the 2011 application was submitted by Kozar Construction, that staff had several conversations with the applicant's builder regarding the rear yard setback distance measurement, and that the setback variance was determined from the "Proposed Site Plan, Exhibit B" drawing provided in the 2011 variance application.

The 2011 application was recommended for approval on the premise, among others, that the proposed dwelling would be constructed 45 feet from the legal lake level (and 28 feet from the north/rear property line) and that a variance would otherwise not be necessary if the 10-foot wide private walkway was not present between the rear lot line and legal lake level. This rationale is, however, not applicable to the 2012 request since the applicant is proposing to place the dwelling 37 feet from the legal lake level, and a 20-foot variance is still necessary, even if the 10-foot private walkway did not exist.

The applicant explains that the dwelling needs to be constructed in the approximate same location as the existing dwelling to pursue an astronomy hobby at the home. While hobbies do not constitute a practical difficulty, it is noted the proposed dwelling location would eliminate the (east) side setback nonconformity, and would not alter the character of the surrounding neighborhood, as several other nearby dwellings have similar rear yard setbacks. The dwelling could be built in a conforming location; however, the 10-foot private walkway is still an exceptional circumstance. It is recommended the Board consider a lesser variance to permit construction of the dwelling 23 feet from the rear lot line (setback 40 feet from the legal lake level).

**PRACTICAL
DIFFICULTY:**

Existence of private walk along shoreline; reduction in degree of nonconformity. See Suggested Motion form.

SUGGESTED NON-USE VARIANCE MOTION FORM

Mr. Chairman:

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

be:

a. granted for all of the following reasons:

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

-OR-

b. denied for one 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.**