

CITY OF
PORTAGE
A Place for Opportunities to Grow

ZONING BOARD OF APPEALS

December 10, 2012

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, December 10, 2012

(7:00 pm)

Portage City Hall
Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * November 12, 2012

OLD BUSINESS:

NEW BUSINESS:

- * ZBA# 12-16, Todd Reynolds, 4317 West Milham Avenue: Requesting a variance to construct a 2,600 square-foot duplex unit with 10-foot side yard setbacks, where minimum 30-foot setbacks are required.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

Star (*) indicates printed material within the agenda packet

Minutes of Meeting – November 12, 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, Michael Robbe, and Glenn Smith.

MEMBERS EXCUSED: Mariana Singer and Lowell Seyburn

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 October 8, 2012 and October 15, 2012 minutes as submitted. Upon voice vote, motion was approved 7-0.

OLD BUSINESS:

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 (west) property line along Frederick Drive, where a minimum 27-foot setback is required. Ron Sheely and Jason VanDyke were present to answer questions. Linenger inquired how long the applicant anticipated the construction would take. Mr. VanDyke said no more than two weeks.

A 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 Robbe, to grant 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. 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 property, multiple street frontages, and location of dwelling on the lot; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to have a protected place to sit outside, which is similar to that possessed by other properties in the same zoning district and in the 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 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, Schimmel-Yes, Smith-Yes, Robbe-Yes, Linenger-Yes, Rhodus-Yes, Bright-Yes. Motion passed 7-0.

NEW BUSINESS:

ZBA #12-14, 3810 West Centre Avenue: Mais summarized the request for a variance to replace the sign panels on a nonconforming freestanding sign. Jerome Kamm was present to answer any questions.

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

Bright inquired if the Board incorporated staff's recommended condition to permit future tenant panel changes without additional Board review, would it apply to both tenant panels. Mais stated yes. A motion was made by Bunch, seconded by Robbe, to grant a variance to replace the sign panels on a nonconforming freestanding sign, conditioned that future sign panel replacements may be approved by the city administration, provided no structural changes are proposed and a sign permit is obtained. There are exceptional circumstances applying to the property which include the limited front lawn area, the location of the existing landscaping and sidewalk; the variance is necessary for the preservation and enjoyment of a

substantial property right, the right to adequately identify a business; the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and 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, Robbe-Yes, Bright-Yes, Schimmel-Yes, Smith-Yes Linenger-Yes, Rhodus-Yes. Motion passed 7-0.

ZBA #12-15, 501 Mall Drive: Mais summarized the requests for: 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. Doug Trout was present on behalf of American Freight. Mr. Trout admitted the signs were erected before permits had been issued. He stated they needed a larger sign on the south elevation to help identify the business from Ring Road. Linenger stated he thought the applicant already had excessive signage when viewing the property from the northeast, and asked if the applicant would be willing to give up one of the other wall signs if the Board permitted them to retain the sign on the south elevation. Mr. Trout stated yes. Linenger noted he observed some rather large signs inside the window on the south elevation and inquired if the applicant still intended to make use of the window for advertising purposes. Mr. Trout stated yes. Bright inquired if American Freight intended to be located at 501 Mall Drive permanently. Mr. Trout responded yes.

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

Robbe inquired if the Board could incorporate both requests into one motion. Mais recommended two separate motions, but Attorney Bear stated the Board could incorporate both into one motion. A motion was made by Bunch, seconded by Schimmel, to grant a variance for wall signs totaling 179 square feet in area (which includes the 50 square-foot wall sign on the north elevation and the 129 square-foot sign on the south elevation) where a maximum 100 square feet is permitted, and a 29 square-foot variance to exceed the maximum permitted 100 square feet for the wall sign on the south elevation, conditioned upon the removal of the 21 square-foot awning sign. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include JC Penney Drive functions like a public street, and the sign conceals wall scarring on the south elevation caused by a previous sign in that location; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify the new business 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: Upon roll call vote: Bunch-Yes, Schimmel-Yes, Robbe-Yes, Smith-Yes, Linenger-Yes, Rhodus-Yes, Bright-Yes. Motion passed 7-0.

ZBA #12-17, 723 Lakeview Drive: Mais summarized the request for a 20-foot variance from the minimum rear (north) yard setback, to construct a new 2,608 square-foot two-story dwelling. Alexander Hanchar, Linda Hanchar, and Bill Kozar were present to explain the request. Mr. Hanchar stated his request differed from his previous request, ZBA #11-08, in that the dwelling was smaller and would be closer to the rear lot line, but the current proposal would also result in the elimination of nonconformity with regard to the (east) side setback and a reduction in degree of nonconformity with the (north) rear setback from the existing dwelling. Mr. Hanchar stated the proposed variance also would keep the dwelling consistently in line with the rear setbacks of neighboring dwellings. Schimmel noted two neighbors did not sign the letter of support Mr. Hanchar brought with him. Mr. Hanchar stated one did not want to put their signature on any paper and the other address was an absentee landlord. Bunch inquired if they would be

willing to move their house three feet further south as recommended in the staff report. Mr. Hanchar stated that moving it back would make it out of line with the neighbor's houses. Schimmel noted the proposal was to place the dwelling 20 feet from the rear lot line and inquired how far the existing dwelling is from the rear lot line at the closest point. Mr. Kozar stated 11 feet from the northeast corner of the dwelling. Rhodus inquired who put the hand written note on 'Exhibit D' indicating the old house line. Mr. Kozar stated he did. Linenger inquired if the proposed second story deck would be covered/enclosed. Mr. Kozar stated it would.

The public hearing was opened. No one spoke for or against the request. A letter stating no objection to the request was read into the record signed by: Lori Carlson-Slater and Greg Slater, 714 Lakeview; Martha Irons, 808 Lakeview; Jackie and Jeff Drake, 707 Lakeview; Jill Liby, 809 Lakeview; Chad and Anna Keim, 653 South Shore Drive; and Darilee and Terence Scheible, 726 Lakeview. The public hearing was closed.

A motion was made by Bright, seconded by Robbe to grant a variance for a 20-foot variance from the minimum rear (north) yard setback, to construct a new 2,608 square-foot two-story dwelling. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include the variance will result in a reduction in the degree of nonconformity, the existence of the private walkway along the shoreline, and the shape and size of the lot; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to a new home similar to those in the surrounding neighborhood; 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, Smith-Yes, Robbe-Yes, Linenger-Yes, Rhodus-No, Bright-Yes. Motion passed 6-1.

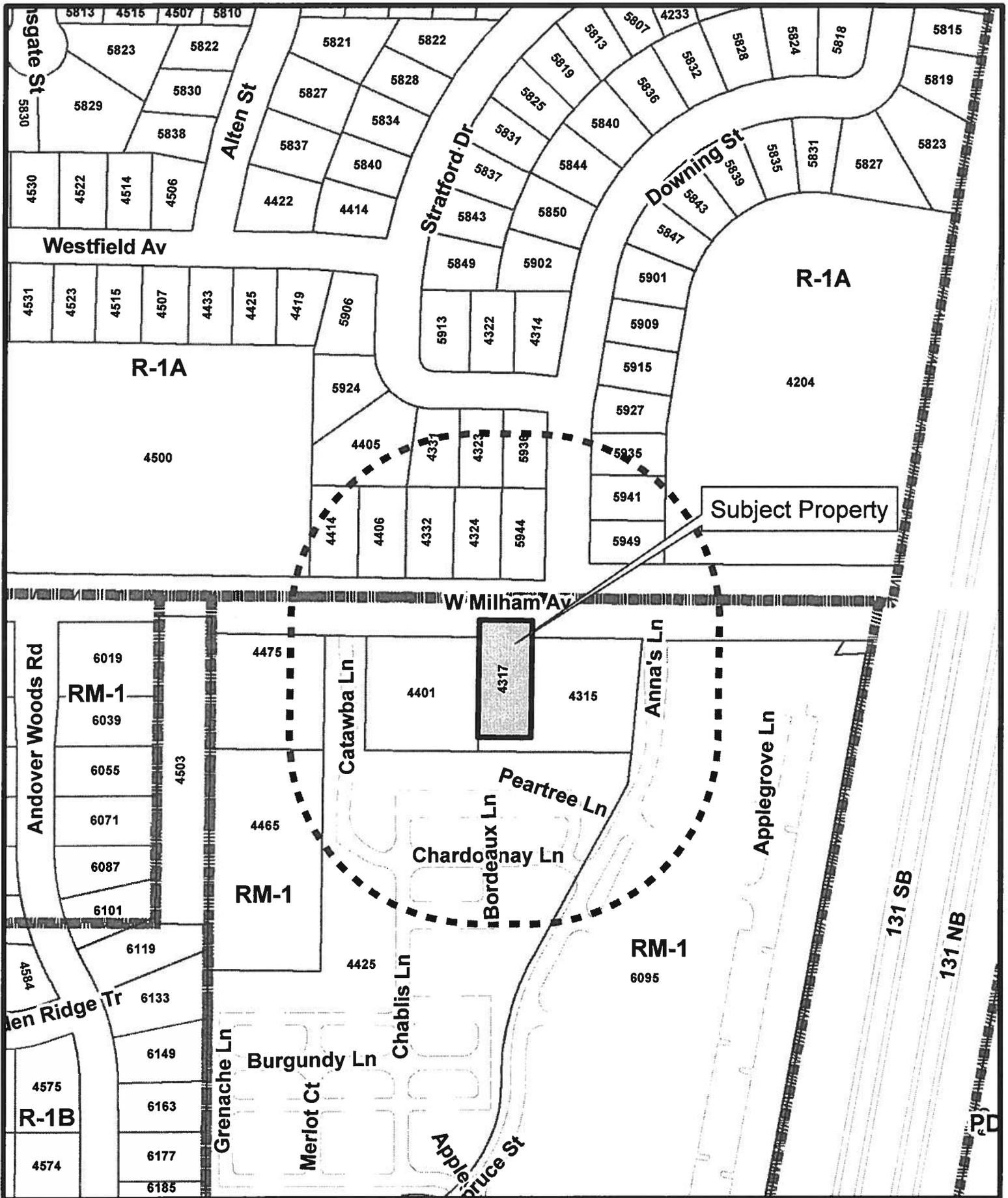
OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:20 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



-  Zoning Boundary
-  Subject Properties
-  Notification Area

ZBA 12-16
4317 West Milham Avenue



1 inch = 200 feet

12-1000016
RECEIVED
OCT 10 2012
COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 9/25/12
 Name of Applicant TODD R. Reynolds Todd R. Reynolds
Print Signature
 Applicant's Address 23144 Prairieview Ct Phone No. 269-998-6318
 Name of Property Owner (if different from Applicant) _____
 Address _____ Phone No. _____

Address of the Property that is the subject of this Application:
 Street Address 4317 West Millham Rd Portage Michigan
 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: applicant Asking for VARIANCE with 10ft side/line set backs - Build Duplex
 Application Fee _____ (Residential Uses) _____ (All Other Uses)

Type of Appeal (Please check one of the following **bold choices** and provide the requested information):
Variance from Zoning Ordinance: Article 4 Section 42-30 Paragraph A
 Regarding: Use _____ Area _____ Yards
 Setbacks Parking _____ Other _____

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: <u>12-1000016</u>	Filing Date: <u>10/10/12</u>	Tentative Hearing Date: <u>12/10/12</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.)

Applicant Asking for VARIANCE for shorter set backs to
place duplex on property (property falls under narrowness)
(property is currently sold)

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

the property property is unique because it is
significantly more narrow than adjacent property

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 - because the property is to narrow
A lesser set back to enable the building of
duplex duplex

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 is the minimum one necessary tried will
work to build the duplex.

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.)

there will be NO adverse affects on
adjacent properties as there are already multiple
dwelling

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 prior dwelling (single family) was not responsible
for any increased traffic congestion the proposed building
should follow the same traffic patterns

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.)

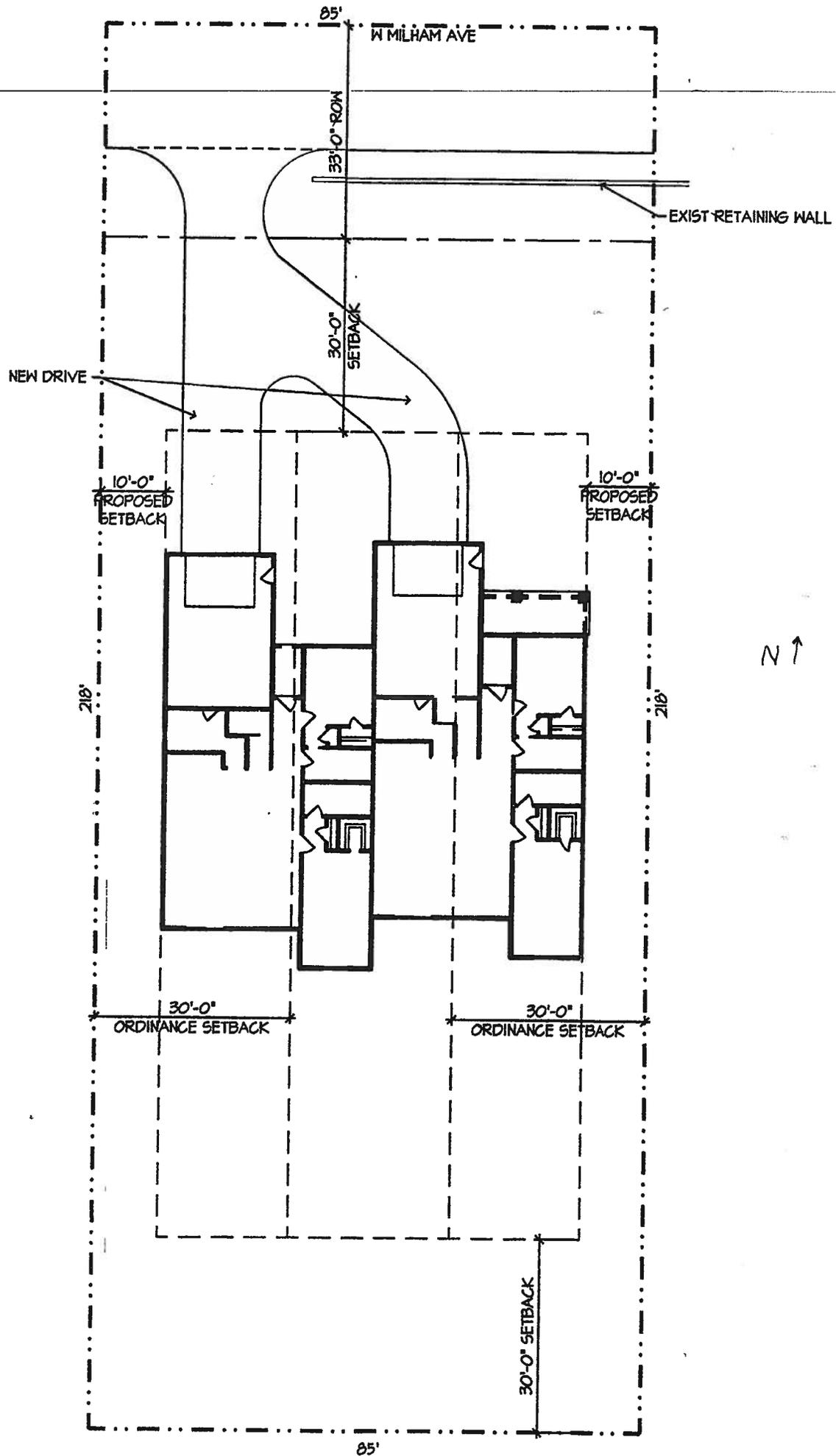
the actual hardship that
has been created is due to the inability to build
the proposed duplex with the current property restrictions

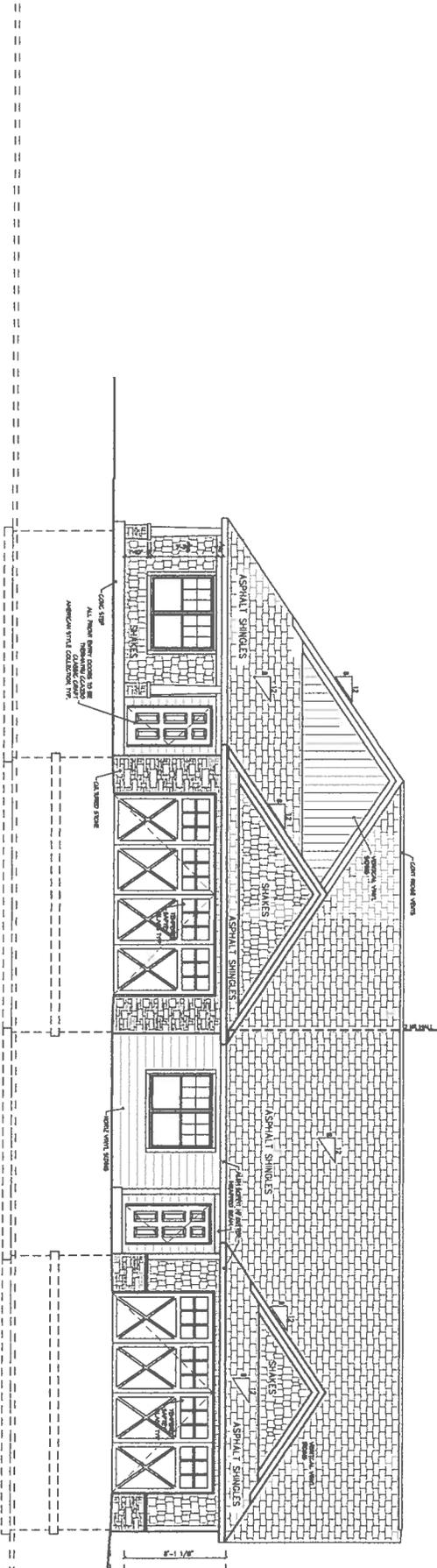
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

the variance would fulfill the zoning ordinance by
enabling us to further enhance the established
multiple dwelling buildings

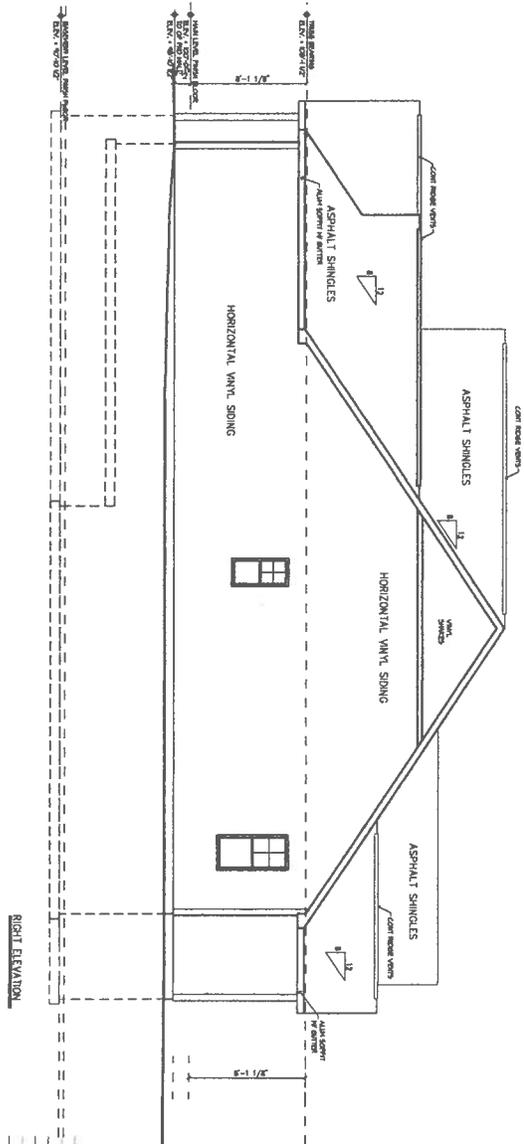
Cecilia Reynolds
Signature of Applicant

9/25/2012
Date





FRONT ELEVATION
SCALE: 1/8" = 1'-0"



RIGHT ELEVATION

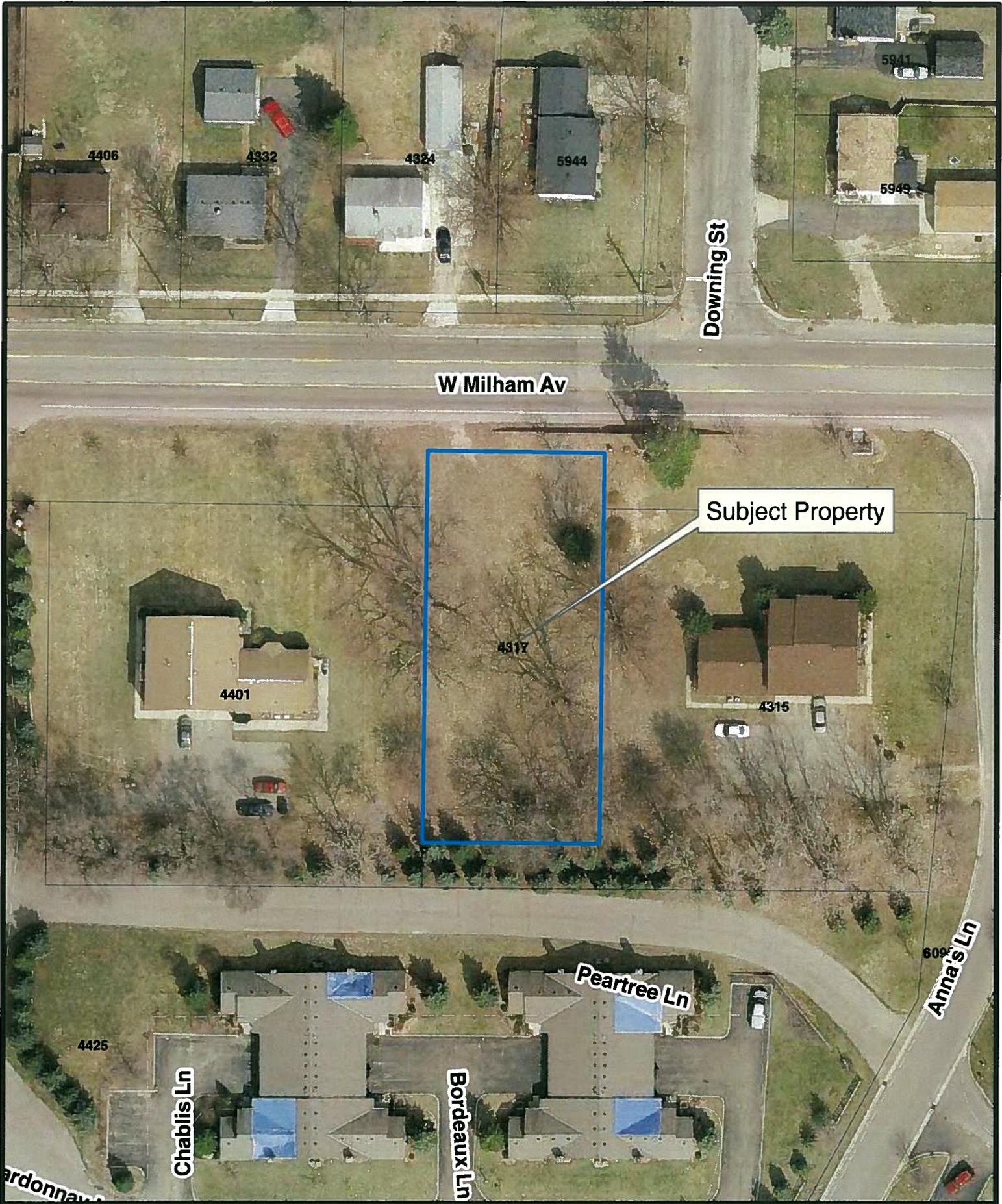
2015
EXTERIOR
ELEVATIONS
A201

bosch
CONSTRUCTION
ARCHITECTURE
INTERIOR DESIGN
10000 E. 15th Ave.
Suite 100
Denver, CO 80231
303.751.1111

2015
EXTERIOR
ELEVATIONS
A201

2015
EXTERIOR
ELEVATIONS
A201

Hamming Home
Michigan



Aerial Photography
4317 West Milham Avenue



1 inch = 60 feet

TO: Zoning Board of Appeals **DATE:** November 30, 2012
FROM: Vicki Georgeau, Director of Community Development
SUBJECT: ZBA #12-16; Todd Reynolds, 4317 West Milham Avenue; RM-1, multiple family residential
CODE SECTION: 42-350(A) Schedule of Regulations; p. CD42:84
APPEAL: Requesting a variance to construct a 2,600 square-foot duplex unit with 10-foot side yard setbacks, where minimum 30-foot setbacks are required.
STAFF RECOMMENDATION:

The vacant 15,725 square-foot property is 85 feet wide and 185 feet deep. The property is zoned RM-1, multiple family residential, and is adjacent to multiple family residences to the east, south and west that are also zoned RM-1. To the north, across West Milham Avenue, are single family dwellings zoned R-1A, one-family residential.

As background information, the subject property was originally zoned R-1B, one family residential, and occupied by a single family dwelling. In 1972, a rezoning application was submitted by several property owners requesting an approximate 43 acre area lying west of US-131 and south of West Milham Avenue (including 4317 West Milham Avenue) be rezoned to RM-1, multiple family residential. The dwelling was subsequently damaged by a fire in 2007 and was razed. The applicant now proposes to construct a 2,600 square-foot duplex setback 10 feet of the east and west side property lines. Because a 30-foot side yard setback is required, a variance is requested.

The 85-foot width of the lot and required 30-foot side yard setbacks applicable in RM-1 district presents practical difficulties for redevelopment of this parcel of land since the building envelope required for either a duplex or multi-family building is only 25 feet wide. As a result, there are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district. The applicant's proposal to construct a single-story duplex unit 10 feet from the side property lines will have little, if any impacts, on adjacent properties. The adjacent multi-family residences to the east and west are both located approximately 50 feet from the side property lines. If this property were zoned R-1T, attached residential, and the applicant proposed to construct the duplex as shown on the attached drawing, the minimum side yard setback would be 10 feet. Property line setback distances in the RM-1 district are required to be greater (30 feet) primarily due to the larger, multi-unit apartment buildings constructed in the RM-1 district.

The immediate practical difficulty causing the need for the variance was not created by the applicant, and conforming alternatives are not practical. For these reasons and the reasons noted above, the variance can be recommended.

PRACTICAL DIFFICULTY: Narrowness of lot, adjacent to other multiple family dwellings. 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.**